

**PARLIAMENT OF KENYA****THE SENATE****THE HANSARD****Thursday, 25<sup>th</sup> July, 2019**

*The House met at the Senate Chamber,  
Parliament Buildings, at 2.30 p.m.*

*[The Speaker (Hon. Lusaka) in the Chair]*

**PRAYER****COMMUNICATION FROM THE CHAIR**

VISITING DELEGATION FROM ARNESENS  
PRIMARY SCHOOL, UASIN GISHU COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting students and teachers from Arnesens Primary School in Uasin Gishu County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I welcome and wish them a fruitful visit.

I thank you.

VISITING DELEGATION FROM MURIKIRA DEB  
PRIMARY SCHOOL, EMBU COUNTY

Hon. Senators, I would also like to acknowledge the presence in the Public Gallery this afternoon, of visiting students and teachers from Murukira DEB Primary School in Embu County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I welcome and wish them a fruitful visit.

I thank you.

*(Applause)*

**Sen. Halake:** Mr. Speaker, Sir, I join you in welcoming the students from Uasin Gishu and Embu counties to the Senate. I would like to encourage them to have an open mind. I went to school in Uasin Gishu County for a long time. Therefore, it is possible that from the primary school they are in, they can become Senators.

We look forward to their future leadership. These students can pursue leaders where they are and pursue good values. I congratulate the teachers for taking their time to bring the children here because learning is not just in class rooms, but through exposure to leadership and other areas.

I thank you, Mr. Speaker, Sir.

**Sen. Dullo:** Mr. Speaker, Sir, I join you in welcoming the students from Uasin Gishu and Embu counties. The two counties are represented by very active and hardworking Senators. I believe that they are held up somewhere carrying out the activities and responsibilities of their counties. However, the fact that they are not here does not mean that we cannot welcome you. We are here to welcome you on their behalf.

This is a rare opportunity for schools to come to Parliament. Sometimes it is difficult for some schools to come to this House. This is a good chance for the students to come to this House. They should appreciate and explore this opportunity to learn what they have obtained while here. I wish them all the best in their studies, especially those who are in Class Eight. I believe that they will achieve what they have earned here. I hope that in future, they will be the leaders in this House.

I thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Musuruve:** Mr. Speaker, Sir, I join you in welcoming the students from Uasin Gishu County to the House. I come from Kakamega County and we border Uasin Gishu County. It is good practice for children as young as this age to come to the Senate to interact with us and see what exactly happens here.

Children learn from observing, seeing and hearing. I commend the school for bringing the students here. Not many schools have such an initiative. Therefore, I commend the teachers for doing a good job. When the learners were coming to the House, I could see some of them running to ensure that they get in on time before we start the sitting. Time management is very important in any institution. I urge them to be punctual in whatever they do.

I thank you, Mr. Speaker, Sir.

**Sen. Shiyonga:** Mr. Speaker, Sir, I join you in welcoming the students from Uasin Gishu and Embu counties. It is a pleasure to see such cheerful students in the House who have come to see what we do in the Senate. We congratulate the teachers who made the effort to bring the young pupils to this Chamber. I also congratulate the parents for supporting the teachers to bring the students here. Being here is an added advantage to the students to see exactly what we do in the Senate, so that we can inspire them to be future leaders.

**The Speaker** (Hon. Lusaka): Next Order.

## PAPERS LAID

### REPORT OF THE *AD HOC* COMMITTEE INQUIRING INTO THE CHALLENGES FACING THE TEA SECTOR IN KENYA

**Sen. Cheruiyot:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 25<sup>th</sup> July, 2019-

Report of the *Ad hoc* Committee inquiring into the challenges facing the tea sector in Kenya.

*(Sen. Cheruiyot laid the document on the Table)*

REPORT OF THE UNITED NATIONS CONFERENCE ON  
CLIMATE CHANGE (COP 24)

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, I beg to lay the following Paper on the Table of the Senate today, Thursday, 25<sup>th</sup> July, 2019-

Report of the Parliament of Kenya Delegation to the United Nations Conference on Climate Change (COP 24) held in Katowice, Poland, from 3<sup>rd</sup> to 14<sup>th</sup> December, 2018.

*(Sen. (Dr.) Ali laid the Paper on the Table)*

**The Speaker** (Hon. Lusaka): Next Order.

**NOTICES OF MOTIONS**

ADOPTION OF REPORT OF THE *AD HOC*  
COMMITTEE INQUIRING INTO THE CHALLENGES  
FACING THE TEA SECTOR IN KENYA

**Sen. Cheruiyot:** Mr. Speaker, Sir, I beg to give notice of the following Motion today, Thursday, 25<sup>th</sup> July, 2019-

THAT, the Senate adopts the Report of the *Ad hoc* Committee inquiring into the challenges facing the tea sector in Kenya, laid on the Table of the Senate on Thursday, 25<sup>th</sup> July, 2019.

NOTING OF REPORT OF THE UNITED NATIONS  
CONFERENCE ON CLIMATE CHANGE (COP 24)

**Sen. (Dr.) Ali:** Mr. Speaker, Sir, I beg to give notice of the following Motion today, Thursday, 25<sup>th</sup> July, 2019-

THAT, the Senate notes the Report of the Parliament of Kenya delegation to the United Nations Conference on Climate Change (COP 24) held in Katowice, Poland, from 3<sup>rd</sup> to 14<sup>th</sup> December, 2018, laid on the Table of the Senate on Thursday, 25<sup>th</sup> July, 2019.

**The Speaker** (Hon. Lusaka): Next Order.

**STATEMENTS**

ETHNIC AND REGIONAL DISTRIBUTION OF  
HIGH CADRE JOBS IN GOVERNMENT INSTITUTIONS/AGENCIES

**The Speaker** (Hon. Lusaka): Sen. Malahah is not in the Chamber. This Statement is therefore deferred.

*(Statement deferred)*

**The Speaker** (Hon. Lusaka): Let us move on to the next Statement.

*(Sen. Omanga walked into the Chamber dressed in a Hijab)*

*(Applause)*

**The Speaker** (Hon. Lusaka): I can see the Senator from Nairobi County, Sen. Omanga creating a lot of excitement in the House.

**Sen. Sakaja:** On a point of order, Mr. Speaker, Sir. I heard you say the Senator of Nairobi County. I would like to confirm that there is only one 'super' Senator.

Sen. Omanga is well dressed because we are from a function at the biggest integrated school of Muslims and Christians in the country.

**The Speaker** (Hon. Lusaka): I said the Senator from Nairobi County. Kindly proceed, Sen. Seneta.

SALE OF MEAT LACED WITH DANGEROUS  
CHEMICALS IN THE COUNTRY

**Sen. Seneta:** Mr. Speaker, Sir, Mr. Speaker, Sir, I rise pursuant to Standing Order No.48 (1) to seek a Statement from the Standing Committee on Health regarding the sale of meat laced with dangerous chemicals in Kenyan butchereries.

In the Statement the Committee should-

(1) State how widespread the practice of lacing meat with dangerous chemicals is, naming the counties that are affected;

(2) Explain why Government agencies such as the departments of public health in the county governments, the Kenya Bureau of Standards (KeBS) and the Pharmacy and Poisons Board (PPB) have not made any efforts to ensure that the food, medicines and other products in the market are of good quality;

(3) Explain the circumstances under which some governors have ordered the closure of butchereries without following the due process thereby rendering some traders jobless; and,

(4) Explain the measures that the Government is taking to ensure that there is a coordinated approach of ensuring good quality foods, medicines and all other goods in the Kenyan market.

I thank you.

**Sen. Cheruiyot:** Mr. Speaker, Sir, I would like to support the Statement that has been brought to the fore by our colleague, Sen. Seneta. Kenyans are looking up to us, as the Houses of Parliament. When such grave issues about their safety are put to the kind of test that we have observed in the last few weeks, it is so embarrassing. It is a shame that as a House, we have not considered ways of solving this issue. It is two weeks since the issue was aired and none of the Houses of Parliament has addressed it specifically us in the Senate because this is an issue concerning health which is a fully devolved function.

In other jurisdictions, when such an issue comes up, the Cabinet Secretary would have assured the country or perhaps even resigned if it is confirmed that, indeed, Kenyans are eating poisoned meat.

Therefore, Mr. Speaker, Sir, I want to urge our colleagues in the Committee that this matter will be assigned to, to treat it with extreme urgency because Kenyans are waiting to know the outcome of the independent tests that are being carried out. We need to seek solutions and understand; can we really get credible answers, as a country, if we send the same people to go and investigate and confirm to us yet they are the first who ought to have checked? The fact that they failed to carry out the inspection and ensure that Kenyans are eating healthy meat, then we cannot trust them to give us a report confirming the presence of dangerous chemicals in these foods.

Mr. Speaker, Sir, normally, the standard time we have agreed to get feedback on such issues is two weeks, but on this particular one, I request that you vary that and make it seven days or less.

**Sen. Wambua:** Thank you, Mr. Speaker, Sir. I also want to go on record in support of the Statement by Sen. Seneta on this issue of consuming poisoned meat from butchereries.

I have two issues: One, it is really unbelievable that it took the work of a journalist to bring out these facts. The question that this nation should be asking itself is: For how long have we consumed this meat before the journalist carried out investigations and came up with this report?

Two, I would have naturally expected that when such a thing happens, the relevant committees of the House including the Committee on Health, would have on their own motion been seized of this matter, dealt with it and give a report to Kenyans as to the extent of this malpractice.

Mr. Speaker, Sir, I want to urge that the Committee that gets seized of this matter does a thorough job, talks to all the relevant bodies, including quality assurance bodies, to ensure that the food that Kenyans are consuming is fit for human consumption.

Thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Ali:** Thank you, Mr. Speaker, Sir. This is a very good and strong Statement. We realize that these problems are there. It is unfortunate that, as a previous speaker before me pointed out, we had to wait for a journalist to do it yet we have people who are tasked with those duties.

Unfortunately, this issue affects mainly the people who are here, the middle and upper class, because most Kenyans go to the butchereries or they slaughter on their own. If we cannot take care of ourselves, then I do not know who will take care of us. If it is brought to the Committee on Health, we will do our best to make sure that the people concerned are able to answer these questions.

Thank you, Mr. Speaker, Sir.

**Sen. (Dr.) Zani:** Thank you, Mr. Speaker, Sir. I also wish to join other Senators in supporting this Statement by Sen. Seneta and congratulate her for bringing up very critical issues.

My opinion is that it is not just probably meat; meat was uncovered by the journalist. There might be many other things there to uncover. I request that as they investigate the meat, they broaden to other consumables that Kenyans are exposed to, look into issues of standards and quality control, all the organizations that are concerned

with this matter and bring them on board to explain what is happening. Why are we dropping the ball? Is it that there is a lot of work? Is it that they cannot keep up? Is it an issue of personnel or equipment? What is the problem? I think this is a broader problem.

Lately, we have seen an upsurge of cancer cases at an alarming rate. Maybe these are the issues that are actually leading to such diseases. Kenyans are exposed and if the media had not highlighted this, we would not have known and we would be comfortably consuming this meat.

Mr. Speaker, Sir, I request that, if possible, that this Statement be broadened to scrutinize all consumables by Kenyans, service providers and quality control in order to deal with this issue once and for all.

Thank you, Mr. Speaker, Sir.

**Sen. Sakaja:** Mr. Speaker, Sir, I thank Sen. Mary Seneta for bringing this important Statement. There are a couple of issues that have emerged since that report was released. We need to get to the bottom of it since it only addressed meat products yet certain unscrupulous traders, with the aim of increasing shelf life, are adding Sodium Sulphite into food, and some medics online say that it is normal. We want to get to the bottom of it so that we know and are able to assure our people that whatever they are consuming is actually suitable for them.

Mr. Speaker, Sir, more importantly, the Committee, and I hope it is the Committee on Health or the Committee on Tourism, Trade and Industrialization, should look at the matter of standards in this country. The reasons we have these institutions is because ordinary Kenyans cannot tell whether food is safe or not.

Mr. Speaker, Sir, as educated as you are, you may not be able to tell whether your meat has Sodium Metabisulphite because there is an institution that is supposed to ensure that it is alright. Today, the Kenya Bureau of Standards (KeBs) has let Kenyans down. Today, almost everything can kill you. You wake up in the morning to take tea and find that your sugar has mercury. At lunch time, your ugali has aflatoxin and the meat has sodium. If you go to the house, as a result of the building standards, it may collapse. A Kenyan cannot verify standards of all these things. You enter a vehicle and realise that it is unroad worthy because there is a Bureau that is actually failing the people of this country.

Mr. Speaker, Sir, our work is to protect the people of this country and assure them that wherever they are operating, there is a Government that is taking care of their interests. Today, I want to tell you, and I am not sounding like a prophet of doom, but I know that from many parts of the country, not just of this city, a lot of the vegetables, which are possibly making their way to Parliament, are being grown and irrigated by untreated sewer water. The vegetables are very green and leafy. How does an ordinary Kenyan at the market ascertain that this product is healthy?

Mr. Speaker, Sir, does national Government and county governments do spot checks in our supermarkets since it is the food department that actually looks at quality control? I am glad that some supermarkets have closed down their meat sections, but that is a knee jerk reaction. They should be doing their work and should be held accountable for the safety and health of the people of this country.

Thank you, Mr. Speaker, Sir.

**Sen. Pareno:** Thank you, Mr. Speaker, Sir, for allowing me to contribute to this Statement. I also thank my sister Sen. Seneta for coming up with this Statement.

This is very serious. We are talking about our staple food. Our staple food is meat and milk. We are talking about food that is consumed by millions of Kenyans. Once it is poisoned or laced with chemicals, it is poison to millions in this country.

It confirms our worst fears that actually, we do not have the necessary departments. If they are there, they are sleeping on the job. Before selling any meat, because some of us slaughter animals every other day, there is always a quality check. In fact, I recall the quality body doing some stamping that the meat is inspected and is good for consumption. So, either they are compromised, put fake stamps or they are not there or they have been eaten up by the corruption that is eating up this county.

Mr. Speaker, Sir, this is very serious and we should have seen people being sacked, losing their jobs considering millions of people consuming chemicals. We have a very high and alarming rate of cancer cases in this country. We are trying to wonder and questioning why. However, at the end of the day, it is because of this kind of negligence.

Upon investigation, any supermarket which is found selling this meat should suffer. I ask the Committee that will investigate this to ensure that those entitled to be indicted, surcharged and made accountable, to be held as such.

Mr. Speaker, Sir, we do not have to wait for Dennis Okari, whom we congratulate and thank for his good job. He should be recognized and awarded for his investigative work. We should celebrate him for coming out to tell us that we are eating poison instead recognizing those who queue to vote while eating *githeri*. In as much as they are entitled to be Kenyans and we respect them, they should not be the ones to receive awards. Therefore, I thank Dennis Okari for coming out. You can imagine what he has put in line in terms of his own personality and to disguise himself to do that job. This is because it is not easy to investigate businessmen who are feeding people poison. However, he took it upon himself to disclose to Kenyans that we are eating poisoned food.

Mr. Speaker, Sir, this is so serious and scary. I make a personal confession that from that day, I stopped buying meat from the shelves. I went for a goat from my home and put it in the fridge. This will be my tradition. Probably, it will finish my only goats, but it is safer to have no goats than to eat poisoned meat.

I support this Statement and ask the Committee to come out strongly and ensure that these people are punished, so that they do not repeat it.

**Sen. Cherargei:** Thank you, Mr. Speaker, Sir. I thank Sen. Seneta for bringing this Statement. When that story ran on NTV, it was christened *'The Red Alert'*. It was scary considering that there is an upsurge of cancer cases and other lifestyle diseases in the country. This is an interesting country because we are reactionary. After the exposé by NTV, the Cabinet Secretary (CS) Ministry of Health, Ms. Sicily Kariuki issued a report which said that they had investigated the issue. This era of being reactionary should stop. Eating something that is poisonous or can lead to infection or other disease is sad.

On the flip side, we should also protect the businesses of people who sell meat in the country. It means that the veterinary officers and that of the Ministry of Health and county governments are sleeping on their jobs. Kenyans love meat, for example, *nyama choma* or grilled meat.

Mr. Speaker, Sir, at one point I used to be a butcher at Kingsway Butchery in Mosoriot Township. I know that if meat it is not handled properly, it can be dangerous and toxic. When a person eats food that can cause food poisoning, it is dangerous. I have

seen the Vice Chairperson of the Committee on Health, Sen. (Dr.) Ali. That Committee must take this matter with the seriousness that it deserves. We cannot play around with food that is served to Kenyans.

The other day, we were talking about mercury in sugar and now we are talking about excess preservatives in meat. There are also Genetically Modified Organisms (GMOs) and so many things. For example, milk is also infiltrated upon. The County Government of Nairobi City should not be reactionary. They must give us proactive steps. They should not close butcheries, which is something that can be done by anybody even county *askaris*. Are there any investigations? What are the public health officers doing? It is either we destroy the businesses of people who sell meat or kill Kenyans through the food that they eat which is resulting in an upsurge of infections and cancer cases.

Mr. Speaker, Sir, I support this Statement and hope that the Committee on Health, which we have faith in, will come up with proactive and necessary measures to protect Kenyans from this issue.

As I conclude, I thank NTV for conducting the exposé '*The Red Alert*' by Dennis Okari. It is important to partner with the media because they are doing a good job of investigative journalism and protecting Kenyans.

**The Speaker** (Hon. Lusaka): I see a lot of interest. Therefore, I will give the remaining Senators two minutes each.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to give my thoughts to this Statement. I thank Sen. Seneta for coming up with this Statement at the right time. When I was watching the news on the way butcheries were using toxic substances to preserve meat, I was negatively affected. It is something that we must interrogate and investigate as a Senate. We must stop callous entrepreneurs who seem not to care about the lives of people. They use toxic substances in the name of preservatives because they want to make money. Butcheries need to purchase enough meat that will sustain their customers for a specific time instead of buying a lot of meat and then look for ways to ensure that it is sold.

Mr. Speaker, Sir, some of the meat becomes red or purple. It hurts that we have been taking this kind of meat. There is need to interrogate this because some diseases like cancer are coming up because of lifestyle issues. Lung diseases are also coming up because of consuming toxic food. We must find ways of protecting Kenyans from poisonous food.

As I was watching news, I saw how chicken and fish were injected with some chemical to make them puffy. This is worrying. We need to help Kenyans----

*(Sen. (Dr.) Musuruve's microphone went off)*

**Sen. Shiyonga:** Thank you, Mr. Speaker, Sir, for giving me this opportunity to support this Statement by Sen. Seneta.

It is sad to see that our country still has short cuts of selling goods and services that are unworthy to human beings. People engage in such businesses that touch on people's lives, for example, selling poisonous meat in the supermarkets because they want to make quick money which is always dangerous. It is not good to practice this on human life.

Mr. Speaker, Sir, as a Member of the Senate Committee on Health, when we get this Statement, we are ready to tackle it and work together with my colleagues, so that we get to the bottom of this matter. The health standards in this country, especially the public health, have gone down to an extent that citizens are not protected especially in public trade such as supermarkets and butcheries. People are engaging in illegal trade especially when they are using, processing, treating, labeling, packaging and selling or advertising goods that are unfit for human consumption. That is endangering the fabric of our life. We are ready to work as a Committee to make sure that Kenyans are safeguarded from all this.

**Sen. (Eng.) Maina:** Thank you, Mr. Speaker, Sir. This issue of food is very serious. It is very puzzling and the highest betrayal in this country today, that you may not know what food you are buying. Countries such as Botswana are making a lot of money. In their economy, beef is a very important product. They make a lot of money through the European Union (EU) and other countries because they have managed to keep their cattle in a manner that is palatable and the whole world knows it is buying healthy meat.

Mr. Speaker, Sir, countries such as Argentina and Australia are earning a lot of foreign exchange through export of meat. It is not just the beef, but the whole line of things such as fish, vegetables, canned food and even medicine. In this country, you never know anymore when you are buying pharmaceutical products.

A certain auctioneer told me that he went to a godown along Mombasa Road to confiscate things. He found somebody there with a machine repackaging expired drugs. He was removing them from the old packet and repackaging them. He walked to the nearest police station and asked the Officer Commanding the Station (OCS) to go and raid the place. The OCS said it was not his duty, but that of the Pharmacy and Poisons Board (PPB)---

*(The red time went off)*

*(Sen. (Eng.) Maina's microphone went off)*

**The Speaker** (Hon. Lusaka): Your time is up Sen. (Eng.) Maina.

*(Sen. (Eng.) Maina spoke off the record)*

You should condense your remarks. Let us have Sen. Boy. Order, Sen. (Eng.) Maina.

**Sen. Boy:** Asante sana, Bw. Spika, kwa kunipa fursa hii nichangie taarifa hii ambayo imeletwa na Sen. Seneta. Kusema kweli hili ni jambo la kusikitisha sana kwa sababu kama unavyojua, kwenye vichinjio kuna watu wa afya pale. Kama ng'ombe au kuku anachinjwa wako pale kupiga ile nyama muhuri. Hili ni jambo la kusikitisha sana.

Tume onyeshwa juzi katika runinga vile nyama ina vyoletwa kwenye maduka ya *supermarket*. Hili jambo lita leta athari kubwa sana katika maisha yetu. Kwa hivyo, namuunga mkono Sen. Seneta kwa kuleta taarifa hii hapa. Hii Kamati ya Afya ishughulikie jambo hili. Si kwamba wasemetu; waende wenyewe wazunguke katika hizi *supermarkets* waangalie. Hawa maofisa wa afya huwa wako wapi wakati mifugo hawa

wanapo chinjwa kwenye vichinjio hivi? Hawafai kukaa tu na kuchukua mishahara mwisho wa mwezi.

Bw. Spika, naunga mkono taarifa hii. Ningepekeza Kamati ya Afya itakayo chunguza jambo hili waende katika vichinjioni na kuhakikisha kwamba kweli mifugo na kuku hawa wanapo chinjwa wanapigwa muhuri.

Naunga mkono.

**The Speaker** (Hon. Lusaka): Order, hon. Senators.

*(Interruption of debate on Statement)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM ST. CATHERINE  
GIRLS' HIGH SCHOOL, BOMET COUNTY

Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting students and teachers from St. Catherine Girls' High School in Bomet County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them, and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.

VISITING DELEGATION FROM ST. ANGELS ACADEMY  
SCHOOL, BUNGOMA COUNTY

I would also like to acknowledge the presence in the Public Gallery this afternoon, of visiting students and teachers from St. Angels Academy School, Bungoma County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them, and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

I thank you.

Proceed, Sen. Mwangi.

*(Resumption of debate on Statement)*

**Sen. Mwangi:** Mr. Speaker, Sir, this Government should start taking things seriously. When it comes to food, the Government should ensure that Kenyans are taking the right food. In places such as Nakuru, people have been found skinning dogs and cats to take to butcheries. These dogs and cats have been eaten by Kenyans. This Government, particularly the public health officers, should start taking thing seriously.

I think corruption has eroded all the integrity that Kenyans had to an extent that they are now dealing in bad food. It is something to worry about when you hear that in Kawangware, butcheries are stocked with human flesh. People are being killed and their flesh is being sold in butcheries. One wonders where this Government is taking the

people of Kenya and why those employed by the Government are not seriously taking the issues pertaining to this country. When it comes to issues such as medicine, in Japan, they are packaging textiles as medicine. That textile packed very well comes to Kenya as medicine and is sold in Kenyan pharmacies.

*(Sen. Mwangi's microphone went off)*

**The Speaker** (Hon. Lusaka): Order. We have a lot of interest. Those speaking please, manage your speech within the two minutes.

**Sen. (Eng.) Maina:** On a point of order, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your intervention, Sen. (Eng.) Maina.

**Sen. (Eng.) Maina:** Mr. Speaker, Sir, I am just appealing to you that when there is a subject of national importance especially involving the threat on the lives of Kenyans, I would beseech you to allow a minimum of five minutes. You can see everybody has a problem of the sequence of mind and thinking when he is cut short too soon. It does not do justice in prosecuting the matter. This is just a request.

**The Speaker** (Hon. Lusaka): I am aware of that. That is why I gave two minutes to each speaker. I would have given one minute but I have taken into consideration what you have said. However, I also request those who are talking to try and compress what they want to say because sometimes we end up just repeating ourselves because most of the people would have already said most of the issues. However, your point is noted.

Proceed, Sen. Mutula Kilonzo Jnr.

**Sen. Mutula Kilonzo Jnr.:** Thank you, Mr. Speaker, Sir. This issue is very unfortunate. Kenyans are on their own; cartels have taken over our lives. The only thing they are yet to take away from us is air. Maybe the air has been already been taken away by cartels and they are going to sell it to us.

Although we can complain, I think and I said this before, in the developed world, the supermarkets selling contaminated meat would have been closed. I know Sen. Seneta has asked about the procedure. They would have been closed on the spot because what they are selling is poisonous. What is the difference between the person who shoots a human being and the one who feeds them with poison? As far as I am concerned, they should be charged for murder. It is the same because you are killing a human being. The people who are given the task of regulating, whether it is sugar---What is the difference between these cartels and the ones who are putting mercury in sugar?

Mr. Speaker, Sir, I think the regulatory framework in this country is lacking. Sen. (Eng.) Maina was dealing with the question of *kiboko* regulation. Somebody does the wrong thing, you give them a slap on the wrist or just talk about some of them, but no action is taken. This is a land which Justice Willy Mutunga called "bandit economy". It is full of bandits wearing nice suits. Unless we take action and jail or shoot one person at Uhuru Park, this country will not reform.

**Sen. Omanga:** Asante Bw. Spika. Naunga mkono taarifa ya Sen. Seneta. Kweli haya maneno ya nyama na vitu vingine ambavyo tumekuwa tuskiskia kuhusu maduka yetu ni ya kusikitisha sana. Sio nyama tuu bali hata vyakula vingine vingi kama mboga vimehusishwa na *Genetically Modified Organisms (GMOs)*.

*(Loud consultations)*

Bw. Spika, kuna kelele nyingi sana. Nashindwa kuendelea, tafadhali.

Kwa sababu ya ufisadi, utapata maafisa ambao wanafaa kukagua hivi vyakula madukani hawatilii maanani. Wanachukua tuu hongo na hawazingatii viwango vinavyotakikana. Wananchi wanafaa sasa kula mboga tuu au tununue nyama *Halal*. Kwa mfano, ninanunua nyama kutoka kwa maduka yanayo uza nyama halali kama sivyo, tunakula mboga tuu.

Haya ni mambo ambayo tunafaa kuangalia. Hata tukiweka sheria, tufuate ile sheria ya Kiislamu jinsi wanavyotengeneza nyama yao. Tukibuni sheria, hayo ni mambo ambayo Kamati ya Afya inapaswa kuangalia. Hii ni kwa sababu hatujasikia kuhusu duka lolote linalouza nyama *Halal* likiuzwa nyama ambayo ina chembe za *sodium* na kadhalika. Nina pendekeza sote tuanze kula nyama *Halal*.

Asante Bw. Spika.

**The Speaker** (Hon. Lusaka): Nina kupongeza sana kwa kujaribu bila kuwa na shida hapa na pale.

Sen. Olekina, nafasi ni yako.

**Sen. Olekina:** Thank you, Mr. Speaker, Sir. I rise to support this Statement by my dear sister, Sen. Seneta. I am a farmer and it is not only meat that is not being kept in a proper way, but all vegetables. If you buy bananas from big supermarkets, they ripen within a day. They are brought in when green, a chemical is put and when you go in, there are beautiful yellow bananas. It is the same thing for vegetables.

It is about time that we ask ourselves what we can do to ensure all of us take responsibility. It is not only about the farmer or the shops and butcheries, but also Government officials who are tasked with the responsibly of ensuring standards. I would like the Committee which you will task with carrying out more investigations into this matter, to follow the entire channel from the farm.

If you drive to Narok County on a daily basis, at 3.00 a.m., you will find pick-ups transporting meat all the way from Narok County to Nairobi City County. The moment you transport that meat from Narok County to Nairobi City County, already you have sort of put it in a condition where it is not safe for human consumption. We ought to look into the issue of bacteria. In the end, it might be helpful for us if standards are clearly defined.

When you go to buy meat in the United States of America (USA), for example, you will know from which farm that meat has come from. You can then follow through, so that when you consume the meat and suffer food poisoning, you know who to prosecute. Those are the standards that we must develop.

Finally, this is the problem that I think the Committee ought to look into. When you take meat from a freezer and put it into a fridge, you affect the stability of the good bacteria. This Committee ought to follow thorough to ensure that all butcheries have a standard system of freezing and ensuring constant and stable electricity. Electricity in this country is unstable.

Thank you.

**The Speaker** (Hon. Lusaka): I will now allow one Senator from one side because we have other statements which are equally important.

Sen. Wario, proceed.

**Sen. Wario:** Asante, Bw. Spika, kwa kunipa nafasi. Kwa kweli dunia imeharibika. Bidhaa na hasa vyakula vimeharibiwa kabisa. Bidhaa za nyama zikiwekwa

kemikali ili zisioze ama zikae kwa muda mrefu, tunakiuka hali halisi ya chakula. Katika hali hiyo, nyama inawekwa madawa ili ikae siku mbili au tatu bila kuharibika. Ie kemikali ambayo inawekwa hiyo nyama kwa muda mrefu inaweza haribu afya ya mwanadamu.

Ninaunga mkono taarifa hii ili kemikali na vitu vingine visiwekwe kwa nyama na hata vyakula vingine kama ndizi, machungwa na kadhalika. Chakula kiwekwe katika hali yake halisi ambayo imekuzwa katika mashamba ili tukuze jamii bora zenye afya.

Ninaunga mkono, Bw. Spika.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir, for giving me an opportunity to make my remarks on this important matter. There are fables and myths where I come from. If you want to bewitch somebody, you do so through food. These people who vend poisonous food are actually witches. I am glad we come from counties and communities that do not agree to being bewitched particularly through food. In my community, we deal with witches by exterminating them. We actually lynch them.

I ask the Committee that will be tasked with the responsibility of looking at this matter to ensure that the recommendations they make include extermination of these witches. This is because these witches who give us poisoned food kill us slowly. When you are being killed slowly, you suffer the cost of hospital---

**The Speaker** (Hon. Lusaka): Sen. M. Kajwang', what is your point of intervention?

**Sen. M. Kajwang':** On a point of order, Mr. Speaker, Sir. It is a bit uncomfortable sitting next to the Senator for Migori County and listening to him advocating for extrajudicial killings in the form of dealing with witches. Is it in order for it to go on record; that a distinguished Senator has recommended that we exterminate people who are suspected to be witches? That is extrajudicial killing that we have pronounced ourselves on in the past.

**The Speaker** (Hon. Lusaka): Sen. Sakaja, what is your intervention?

**Sen. Sakaja:** On a point of order, Mr. Speaker, Sir. As you give your direction on the matter, kindly let us also know if it is also in order for the Senator for Homa Bay County to defend the witches and whether his discomfort was sitting next to the Senator for Migori County, who is his physical neighbour even in the County.

*(Laughter)*

**The Speaker** (Hon. Lusaka): Order, Members! Every community has a way of dealing with their own witches. As the Senator for Migori County has said, they have a way of dealing with theirs. Let us leave it to them to manage them.

Proceed.

**Sen. Ochillo-Ayacko:** Mr. Speaker, Sir, I sympathise with my neighbour. In Homa Bay County, they have an association of witches.

*(Laughter)*

Perhaps, he is speaking on---

**The Speaker** (Hon. Lusaka): Sen. M. Kajwang', what is your point of intervention?

**Sen. M. Kajwang'**: On a point of order, Mr. Speaker, Sir. For all I know, in Homa Bay County, we do not have an association of witches. We might have an association of night runners. Night running is a sport and not witchcraft. Could the Senator for Migori County withdraw those insinuations that we have witches in Homa Bay County?

**Sen. Ochillo-Ayacko**: Mr. Speaker, Sir, in my community, there is no distinction between night runners and witches. In fact, night runners are night witches. I sympathise with my colleague who is defending witches. However, I am more concerned with the witches who poison people through food.

**Sen. Shiyonga**: On a point of order Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your intervention Sen. Shiyonga?

**Sen. Shiyonga**: Mr. Speaker, Sir, the two Senators are talking of the same thing. Witches and night runners are people who are in action and they need to be applauded.

**The Speaker** (Hon. Lusaka): What is your point of order? That must have been on a light note.

Proceed, Sen. Ochillo-Ayacko.

**Sen. Ochillo-Ayacko**: Thank you, Mr. Speaker, Sir. I am not advocating for extrajudicial killing, but I want the Committee concerned to know that these people are killing Kenyans. I want them to come up with recommendations that will legally exterminate these people so as to prevent them from poisoning Kenyans for the sake of making profit.

This Statement is not just about poisoning Kenyans, but it is also affecting tourism. People who visit Kenya to see its beauty and splendour are now alarmed that they will eat poisoned food. Our visitors will reduce and if they are to come, they will probably carry their own food and that will cripple our economy. This is a serious matter and I am happy that Sen. Seneta has raised it on behalf of aggrieved Kenyans.

**Sen. Madzayo**: Asante Bw. Spika. Tangu nchi hii ipate uhuru mpaka sasa, hatuja wahi kuwa na aibu kubwa kama hili jambo la wakenya kula nyama iliyo dungwa dawa. Maduka ambayo yana patikana na hatia ya kuuza nyama mbovu ni lazima yafungwe mara moja. *Veterinary inspectors* wana takikana wafanye kazi yao vizuri. Tunajua ya kwamba kuna ufisadi mwingi unao endelea na hatutaki kusema ya kwamba hao ni wafisadi kwa sababu hakuna hatua ya kisheria ambayo ime chukuliwa lakini tuna sema ya kwamba huu upotevu ni wa kusikitisha. Daktari ambao wana chunguza nyama wasiwe wazembe katika kazi.

**Sen. Omanga**: On a point of order Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): What is your point of order Sen. Omanga?

**Sen. Omanga**: Bw. Spika, Seneta kutoka Kilifi ana sema ya kwamba watu ambao wana kubalia nyama ambayo ina sumu kwenye *supermarket* sio wafisadi ilahali hao watu wamekubalia hiyo nyama kuwa katika maduka yetu. Je hiyo ni halali? Anasema eti hatuwezi kuwaita wafisadi mpaka wapelekwe kortini.

**Sen. Madzayo**: Bw. Spika, katika sheria zetu, mtu hana hatia mpaka apatikane na hatia. Hawa madaktari ambao wana chunguza hao wanyama ndio wako na hatia. Ni lazima hao madaktari wazingatie ya kwamba wakenya wana tumia chakula hiyo na wanaweza poteza maisha yao wakikula chakula mbaya.

*(Interruption of debate on Statement)*

**COMMUNICATION FROM THE CHAIR**VISITING DELEGATION FROM ARUNDA PRIMARY  
SCHOOL, HOMA BAY COUNTY

**The Speaker** (Hon. Lusaka): Hon. Senators, I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting students and teachers from Arunda Primary School, Homa Bay County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them and on behalf of the Senate and on my own behalf, wish them a fruitful visit.

Thank you.

**Sen. M. Kajwang'**: Mr. Speaker, Sir, allow me to welcome the students from Arunda Primary School. This is one of the best primary schools in Homa Bay Constituency and Homa Bay County. I am glad that the boys and girls sitting in the gallery have come here to get exposure on the law making process and the mechanics of running this nation through legislation.

They had the choice of either going to the National Assembly or the Senate and in their wisdom; the leadership of the school chose the Senate. They have come to the House of sober debate and second reflection. I want to encourage the youngsters to aspire high. I will not sit in the Senate forever hence they should prepare themselves to take over the position that I am holding. However, they should allow me to serve my term. When I get tired, I will hold their hands as they represent the people of Homa Bay.

**Sen. Dullo**: Thank you, Mr. Speaker, Sir. I also welcome the students from Homa Bay County. I want to confirm to the students that they have an active and hardworking Senator. They should prepare to take over from him when he retires.

*(Resumption of debate on Statements)*

CONSISTENT PROBLEMS EXPERIENCED BY  
COUNTIES WHILE USING IFMIS

I rise pursuant to Standing Order No.48(1) to seek a Statement from the Standing Committee on Finance and Budget concerning the consistent problems being experienced by counties while using the Integrated Financial Management Information System (IFMIS).

In the Statement, the Committee should-

(1) Outline the exact problems that are currently being experienced by counties in the use of IFMIS.

(2) Explain reasons for the problem of IFMIS in counties and the possible solutions to those problems.

(3) State whether the National Treasury is aware that several counties have currently resorted to using the manual system which lacks transparency and accountability.

(4) Outline the steps that the National Treasury plans to take to ensure that IFMIS is fully operational in counties.

**The Speaker** (Hon. Lusaka): The previous Statement will be handled by the Committee on Health.

Proceed, Sen. Ochillo-Ayacko.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Speaker, Sir. Allow me to add my voice to what my neighbour, Sen. M. Kajwang', has said. On behalf of the people of Migori County and on my own behalf, I want to welcome the students from Arunda Primary School, Homa Bay County. They are my neighbours. I regularly visit Homa Bay County. They should make the best out of their visit.

Sen. Dullo is my sister and we pursued our Masters degree at the same time. She has brought a wonderful Statement to this House. Most governors and county governments lament about timely flow of cash. If this is not addressed, we will keep on hearing of failure to absorb funds because of remitting funds at the end of the financial year.

I beseech and implore the Committee that will be tasked with the responsibility of finding a solution to this to look at the technicalities; the nuts and bolts, of how to run IFMIS. They should also ask the person responsible for transmitting finances to county governments to do it in a timely and secure manner for the counties to perform their mandate. In the month of July, most institutions of Government lack cash flow because IFMIS stalls in that month.

Other than addressing the issue of IFMIS in so far as county governments are concerned, to address it in so as far as other institutions are concerned because we all need services; whether nationally or in the counties.

Thank you, Mr. Speaker, Sir. I congratulate my sister for raising this very important issue.

**The Speaker** (Hon. Lusaka): Sen. M. Kajwang'

**Sen. M. Kajwang':** Mr. Speaker, Sir, I will not attempt to debate the Statement that has been brought by Sen. Dullo. I sit with her in the County Public Accounts and Investments Committee (CPAIC). We have previously invited the National Treasury to update us on the measures they have taken to ensure that the IFMIS is fit for purpose and serves the people of counties.

I wanted to suggest that as the Committee deals with this Statement, we broaden the perspective to look at the different information systems that are being used by counties. IFMIS is just one of them. We also have the Integrated Payroll and Payroll Database (IPPD) that is used for personnel records and management. We also have the Local Authority Financial Management System (LAFMS), which has previously been used for recognition of own-source revenue. Unfortunately, counties continue to use LAFMS when it does not enjoy support. The IPPDP is housed in the Ministry of Labour and Social Protection while IFMIS is housed in the National Treasury. LAFMS has no home and no one is supporting it. There is another solution called G-pay and then we have got multiple revenue collection systems that counties are using.

Mr. Speaker, Sir, I urge that as it is committed to the relevant Committee, the Committee expands the scope to all the information technology platforms. I know IFMIS takes 60 per cent of the concerns, but we need to ensure that there are proper enterprise

architecture and proper framework for the other little systems for their utilisation in counties.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Halake.

**Sen. Halake:** Thank you, Mr. Speaker, Sir. I also rise to support the Statement by my Senator, Sen. Dullo, with regards to IFMIS. Also, I almost switched off my request when I heard what Sen. M. Kajwang' said about the other financial management systems within our counties and in the country.

Mr. Speaker, Sir, the control weaknesses are nothing new. I think it is very good that my Senator has brought up this matter because it is something we have been grappling with in the audit reports we have read when we were dealing with the governors.

There is mayhem with regards to how many systems are at play. So many systems are being used, but there is mischief in how these systems are being used to suit the situation on the ground. The audit reports on the effectiveness of IFMIS revealed big negligence. It is not just the system not working, but there was negligence on the part of the users and the checks and balances as well as the levels of access that are given to different people. In the past, we saw that in certain counties people who should not be having any access within IFMIS have access to it from governors' wives to people who do not have any authority to do this.

Mr. Speaker, Sir, the lack of data safeguards is another issue. We, in the ICT Committee, had picked this and decided that we should summon the Commission on Revenue Allocation (CRA) and others in terms of own revenue collection and management systems. This is something that is very important and timely. The Committee concerned should, as Sen. M. Kajwang' has said, broaden the scope of this Statement so that we look at all the other revenue collection systems that are being used in the counties.

Mr. Speaker, Sir, there also other different systems that counties are purchasing even where we have free systems in place from the National Treasury. I think that in as much as there are weaknesses within IFMIS, there is negligence and mischief to pick and choose what is suitable at different times. The multiple engines and use is of concern. This House should look at it. Within the expenditure frameworks that we saw within the audit reports, there were big disparities from all the different systems that there are.

I support and request that perhaps we expand this to include all the systems that are being used.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): Sen. Sakaja.

**Sen. Sakaja:** Mr. Speaker, Sir, I thank the Deputy Leader of Majority for raising this very important Statement. I think we will not be doing our work as the Senate if we do not critically with time and thoroughly look at the issue of the use of technology within our counties and the IFMIS. A few issues arise.

Mr. Speaker, Sir, technology is good, but sometimes technology is an opportunity for those who are bright to steal. They say if you cannot convince them, confuse them. Many times, we hear the system is down so that people go back and revert to manual systems. During that manual, especially, in the collection of revenue, a lot of theft takes place.

Mr. Speaker, Sir, I want the Committee to look at the adaptability because what we are almost having in the country is a monopoly because of the insistence by the National Treasury of IFMIS system and that other systems cannot patch onto it. Therefore, one technology company, I think it is Oracle, is having a monopoly on adaptability and serviceability of that information system yet there are many other enterprise resource-planning platforms that our counties can use.

The CPAIC and the Committee on Finance and Budget need to set clear standards for all counties on own-source revenue technology for use for own-source revenue collection. Different counties are employing the method that they want which they design locally, and many times, you find that they are suiting other interests.

Mr. Speaker, Sir, I am glad that our counties can now build capacity. I am very happy that Nairobi City County has moved from using one system and they are building their internal capacity. However, even that needs to be based on a standardized model by the Senate, so that every county can build capacity according to certain standards. There must be an interface through which the CPAIC or the Auditor-General and other institutions of accountability can monitor day-in day-out how much money is being collected.

Technology is good, but it must be used for good purposes. We opened a data centre worth hundreds of millions in Nairobi, yet people of Nairobi are yet to feel the value of that data centre that was launched by President Uhuru Kenyatta. If you go to many towns and cities across the world, as soon as you land in the airport, you will get an interface on your phone which tells you: "Welcome to this county, this is how you do this, this is how you pay your parking, this is how you get information about the place and all other information." All that information is available to you even if you are a visitor in that place.

Mr. Speaker, Sir, let us look at the accountability aspect, versatility and adaptability of this technology and understand if this is the best system for us to force all counties to use and whether they can adapt theirs and if not, what basic standards can cut across. With that, Kakamega and Wajir counties can develop their own that patches on to it.

Finally, there must be a standard on the amount of money being taken as a commission by the companies that are being engaged to collect revenue in our counties. In some counties, it is up to six per cent and others, it is 10 per cent of the commission of revenue yet we have a revenue authority that is national and our counties can set up their own revenue authorities. So, let the law not be misused to create gaps for maleficence and theft.

Thank you, Mr. Speaker, Sir.

**The Speaker** (Hon. Lusaka): In the interest for the time we have for Statements, those who will speak now will have three minutes.

**Sen. (Dr.) Ali:** Thank you, Mr. Speaker, Sir. This is a very important Statement from Sen. Dullo. This issue of IFMIS is giving us a nightmare everywhere. In some counties, you are told that you are given 10 minutes at midnight. I do not know why they want people to become nocturnal animals to do their jobs at night.

Mr. Speaker, Sir, many people have been arrested because of being told they have misused their signatures. When you ask them, they say somebody used their password. As the Senator for Nairobi City County said, there are problems here. Those who are

experts in information technology can make sure that the passwords for those who are semi-analogue are misused and they steal. This is what happened in the National Youth Service (NYS) scandal where many people were arrested, later some few were charged and others were released. I think whichever Committee that will be responsible for this Statement must look into the technicalities of the whole issue and assist these counties with that.

Mr. Speaker, Sir, on the own-source revenue, we are already dealing with a Bill that is sponsored by Sen. (Dr.) Zani which will hopefully resolve this issue because we want one system for the whole country, but the counties can have their own.

I thank you, Mr. Speaker, Sir.

*(Interruption of debate on Statement)*

**The Speaker** (Hon. Lusaka): Hon. Senators, I have a Communication to make.

### COMMUNICATION FROM THE CHAIR

#### VISITING DELEGATION FROM GREAT AGAPE PRIMARY SCHOOL, NAROK COUNTY

I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting students and teachers from Great Agape Primary School in Narok County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I welcome and wish them a fruitful visit.

I thank you.

Sen. Olekina, you can welcome the student and proceed to make your remarks on the Statement

**Sen. Olekina:** Mr. Speaker, Sir, from the onset, I welcome the students from Narok County. While they are here, they should think about tomorrow. I would like to encourage the students to conserve the environment. I will give them my phone number so that when they plant trees at their school, they should call me to come see the trees and support them. I am sure they know how dry Narok County is. However, when we plant more trees, it will help us. One day when I am old and walking using the support of a walking stick, I will be watching the students who are future leaders debate in here. I urge them to aspire to greater things. I hope that I can see them before they leave.

*(Resumption of debate on Statement)*

I also rise to contribute to the Statement by Sen. Dullo on the issue of Integrated Financial Management Information System (IFMIS). I am one of the people who believe that the IFMIS is not bad. What is bad is that we are not at the same level in terms of technology capacity in the country. One of the most important things that the Committee needs to look at while dealing with this issue is whether the single payment system that the National Treasury is forcing us to us, how is it interconnected with the IFMIS. In most cases, when the IFMIS is down, it is because there is no money to pay people. We

need to agree that it is time to have an IFMIS system for county governments and another system for the national Government.

Mr. Speaker, Sir, the biggest problem that we have observed is that a lot of the counties are over budgeting yet they do not have the money. As we condemn the IFMIS, we have to look into what we can do to ensure that county government's budget only within the amount of money that they have. The issue of supplementary budgets that bypass IFMIS is what is causing the problems that we are having with the system.

As the Committee will be looking into this issue I hope that we will be realistic and accept the fact that a lot of cartels do not want the IFMIS to work. They do not want the system to work because they want to bypass those steps where by you can input a zero and with technology you can add another zero so that instead of being paid Kshs2,000 you are paid Kshs20,000. These are realities that we must accept and make sure that whatever solutions we are looking for are things that will help this country go forward and not those that will continue oiling the paths of the cartels.

Mr. Speaker, Sir, I thank you.

**Sen. (Dr.) Zani:** Mr. Speaker, Sir, so many statements have been raised before concerning the IFMIS. There is some sort of mystery in the way the communication is done. Through the Committee on Finance and Budget, questions have been raised over time to understand the IFMIS which should have been important in making communication between the county and national Government. Somehow for some reason, the system has been so mystified to the point that you are never clear on what is happening. From the trips that we have made to various counties, it is in only one county that we saw some level of transparency in the way that they were using the IFMIS. To a large extent, the IFMIS has been abused. Therefore, a good review has to be made.

I support the Senator for Isiolo County for bringing this Statement

Sen. (Dr.) Ali alluded to the fact that we already have an amendment Bill on the Public Finance Management (PFM) Act. However, for devolution to work, a thorough investigation of the IFMIS and any other system needs to be conducted. We may even need to involve more Senators in the Committee of the Whole to look into the issue of IFMIS and other systems within counties and sort it once and for all.

Mr. Speaker, Sir, I thank you.

**Sen. Cheruiyot:** Mr. Speaker, Sir, this is a very important issue. I personally agree with my colleagues that IFMIS aids devolution in terms of accountability. The Statement by Sen. Dullo highlights some of the challenges which the national Government has been unable to address. The truth is that if you speak to some of our colleagues who work in the county governments, they will tell you that the national Government continues to run the counties through the IFMIS. The national Government decides when you can procure, pay people and so on. That is so unfortunate.

As the Members of the Committee on Finance and Budget, it will be extremely important for us to have a sit down with the representatives of the National Treasury and understand whether there are administrative gaps that make them fail to perform at optimum levels. I do not buy the notion that it is only when resources are available that they can allow the counties to procure and do many other things. This will present us with better opportunities for collaboration with the counties.

Mr. Speaker, Sir, I have always wondered why, as the Senator, I do not receive a copy of the transactions that are undertaken by my county government. I should be

supplied with a statement of the IFMIS monthly or quarterly for me to know the programmes that are undertaken by my county. Being the lead oversight agent in the county, it is important for me to receive the financial reports. I believe that it will be a very good experience once we have this interaction to see the gaps that exist in the IFMIS.

Mr. Speaker, Sir, I thank you.

**The Speaker** (Hon. Lusaka): The Statement is committed to the Committee on Finance and Budget.

Hon. Senators, I have a Communication to make.

*(Interruption of Statements)*

### COMMUNICATION FROM THE CHAIR

VISITING DELEGATION FROM OSOIT TOP MARK  
PRIMARY SCHOOL, KAJIADO COUNTY

I would like to acknowledge the presence in the Public Gallery this afternoon, of visiting students and teachers from Osoit Top Mark Primary School in Kajiado County.

In our usual tradition of receiving and welcoming visitors to Parliament, I extend a warm welcome to them. On behalf of the Senate and my own behalf, I welcome and wish them a fruitful visit.

I thank you.

*(Applause)*

*(Resumption of Statements)*

Let us move to the next statement.

Kindly, proceed, Sen. Dullo

BUSINESS FOR THE WEEK COMMENCING  
TUESDAY, 30<sup>TH</sup> JULY, 2019

**Sen. Dullo:** Mr. Speaker, Sir, pursuant to Standing Order No.52(1), I hereby present to the Senate, the business of the House for the week commencing Tuesday, 30<sup>th</sup> July, 2019.

Before I proceed with the Statement, allow me to commend all hon. Senators who were present in the House during yesterday's sitting where the Senate considered and approved two Bills which are in the process of being transmitted to the National Assembly. I implore upon Senators to be patient during Divisions on Bills and Motions affecting counties as their passage requires the House to adhere to the constitutional threshold of 24 delegations.

Mr. Speaker, Sir, on Tuesday, 30<sup>th</sup> July, 2019, the Senate Business Committee will meet to schedule the business of the Senate for the week. Subject to further directions by the Committee, the Senate will consider Bills due for Second Reading and Committee of the Whole on Tuesday, 30<sup>th</sup> July, 2019. The Senate will also continue with

the consideration of business that will not be concluded in today's Order Paper. On Wednesday, 31<sup>st</sup> July and Thursday, 1<sup>st</sup> August, 2019, the Senate will consider business that will not be concluded on Tuesday and any other business scheduled by the SBC.

Mr. Speaker, Sir, you will note that the Senate has received and continues to receive quite a number of Petitions and Statements which are referred to the relevant Select Committees for consideration. I urge respective Committees to expeditiously conclude with these pending Petitions and Statements before them and table reports pursuant to the Standing Orders.

Mr. Speaker, Sir, before I conclude with the Statement, I urge the remaining Standing Committees to make their reports relating to the activities of Committees pursuant to Standing Order No.51(1)(b) and as scheduled in the Order Paper.

Mr. Speaker, Sir, I thank you and hereby lay the Statement on the Table of the Senate.

*(Sen. Dullo laid the document on the Table)*

**The Speaker** (Hon. Lusaka): Let us move on to the next Order.  
Sen. Cheruiyot, you may now proceed.

## BILL

### *Second Reading*

#### THE PERSONS WITH DISABILITIES (AMENDMENT) BILL (SENATE BILLS NO.1 OF 2019)

**Sen. Cheruiyot:** Thank you, Mr. Speaker Sir. I would like to formally withdraw this particular Bill having consulted with my co-sponsor; Sen. (Dr.) Mwaura. We had a discussion with the Committee and felt that there are certain things that we first needed to clear bearing in mind that the Committee was working on a Bill that is almost similar to this Bill. Therefore, I formally withdraw it.

**The Speaker** (Hon. Lusaka): Hon. Senators, that is within the provisions of Standing Order No.154. I am satisfied with the withdrawal and I grant it.

*(Bill withdrawn)*

**Sen. Sakaja:** Mr. Speaker, Sir, just allow me to quickly touch on the already withdrawn Bill because you have declared it withdrawn. I would like to confirm that Sen. (Dr.) Mwaura and Sen. Cheruiyot have been very cooperative. In the Committee that I chair, I have held very intensive public participation sessions on the Person with Disability Bill. Many of the stakeholders really felt that there has been a process which came up with a more comprehensive Bill that accords to the Constitution.

Our legal counsel has redrafted the Bill by both Sen. (Dr.) Mwaura and Sen. Cheruiyot. It shall come back, but still under their names. This is because Committees are not designed to curtail legislations, but to improve them. It is a Bill that had the widest

stakeholder acceptance and Sen. (Dr.) Musuruve can confirm. We look forward to publishing it soon.

Thank you, Mr. Speaker, Sir.

## STATEMENT

### MATUMIZI YA KISWAHILI BUNGENI

**Sen. Faki:** Asante, Bw. Spika. Nimesimama hapa kuambatana na Kifungu 87 cha Kanuni za Bunge kinachohusu matumizi ya lugha bungeni. Lugha za matumizi katika Bunge la Seneti ni Kiingereza, Kiswahili na lugha ya Ishara. *Order Paper*, yaani karatasi hii kwa Kiswahili, ni chombo muhimu katika utaratibu wa maelezo ya yale ambayo yatatokea katika Bunge na hutolewa kila siku, masaa 12 kabla ya Bunge kukaa. Kwa hivyo, ni muhimu pia iandikwe kwa Lugha ya Kiswahili. Inapochapishwa kwa Lugha ya Kiswahili itawawezesha Wakenya wengi kufuatilia kwa ukaribu mazungumzo yanayoendelea hapa katika Bunge na pia kuwafahamisha yale ambayo yanajiri hapa.

Bw. Spika, lugha ya Kiswahili ni lugha ambayo inakua. Kwa hivyo, tutapata fursa pia kuchangia katika kukua kwa Kiswahili na matumizi yake katika Bunge letu la Kenya na Wakenya kwa jumla. Nimefurahi kwamba wengi wa Maseneta wanaweza kuongea kwa Kiswahili sanifu. Leo tumeona mapema Seneta Maalumu, Sen. Omanga, akitoa mchango wake kwa Kiswahili bila shida yoyote.

Kutafusiriwa kwa *Order Paper* hii katika Lugha la Kiswahili kutasaidia pakubwa wananchi pale nje ambao wanataka kufuatilia shughuli za Bunge hii kwa utaratibu kabisa.

**Sen. (Dr.) Zani:** Asante, Mhe. Spika. Nataka kumwunga mkono Sen. Faki kwa hoja hiyo muhimu sana. Karatasi hii ya utaratibu ambayo tunafanya hapa Seneti ni muhimu kwetu sisi na pia pale nje. Kuna watu wengi ambao wanafuatilia mambo ambayo tunafanya hapa. Wanataka kujua tunazungumza juu ya nini na vile ambavyo lugha yenyewe imetukuzwa na inaweza kuzungumzwa hapa. Kwa hivyo, ni muhimu karatasi hii iandikwe katika lugha ambayo inaweleweka na wengi wa Wakenya pale nje.

Bw. Spika, ninamshukru sana kaka yangu kwa kuleta hoja hii. Ni muhimu kutafuta njia za kutekeleza mapendekezo haya.

**Sen. M. Kajwang':** Bw. Spika, sisi kama wakaazi wa Homa Bay, na mimi kama kiongozi wao katika Bunge hili la Seneti, ningependa kumuunga mkono Seneta wa Kaunti ya Mombasa, Sen. Faki, katika hoja hii. Ni muhimu karatasi ambayo inapanga utaratibu wa Bunge hili la Seneti ichapishwe kwa Lugha ya Kiswahili.

Ningependa kumwomba Sen. Faki, alete Hoja hapa Bungeni ili isiwe tu ni ile karatasi ya utaratibu lakini iwe pia ile ambayo tunaita *Standing Orders* kwa sababu imechapishwa kwa Lugha ya Kiingereza.

Katiba inafaa ichapishwe kwa lugha ambayo Wakenya wengi wanaweza kuielewa. Wakati huu tunapozungumza, Katiba imechapishwa kwa lugha moja pekee. Isitoshe hata ripoti za kamati za Bunge hili hazifai kuchapishwa kwa lugha moja pekee.

Tukipitisha Hoja kama hiyo, nina uhakika kwamba Maseneta na Wabunge watarudi shuleni ile wajifunze Kiswahili. Pia itabidi wanafanyikazi wa Bunge waimarishe uwezo wao wa kuandika ripoti kwa lugha ya Kiswahili.

Bw. Spika, jambo hili ni la lazima katika Katiba yetu.

Namuunga mkono, Sen. Faki.

**The Speaker** (Hon. Lusaka): Nakushukuru sana. Kulingana na Kaunti yako unayokilisha hapa, umejaribu sana.

*(Laughter)*

**Sen. Sakaja:** Bw. Spika, hata mimi namunga mkono Seneta wa Mombasa kwa dhiti. Ni kweli Katiba yetu imeorodhesha zile lugha ambazo za kutumika katika taifa letu; Kingereza, Kiswahili na pia lugha ya Ishara.

Ukitamaza runinga hapa Bungeni ama wale ambao wanafuatilia shughuli zetu kule nyumbani kupitia runinga, hatuna yule ambaye anatafsiri kwa lugha ya ishara. Tungeomba pia jambo hilo liangaliwe kwa makini ili Wakenya wengi waweze kufuatilia yale ambayo tunafanya katika Bunge. Hii ni kwa sababu tunawakilisha majimbo na wale ambao wako chini kabisa, itakuwa bora tukijaribu kuzungumza Kiswahili siku moja kwa wiki kwa saa moja. Tunaweza kuamua iwe ni Alhamisi kati ya 2.30 p.m. na 3.30 p.m. ili pia kuwe na uzoefu kwa viongozi wetu kutumia lugha ya Kiswahili.

Ninajua kuna wale ambao wako na changamoto, hasa wale ambao wanatoka karibu na Ziwa la Victoria. Wao husema Kiswahili, “Siyo mdomo chao”. Hata wanaisema vibaya lakini tunajua wakizaliwa wanaanza na Kiingereza. Hata watoto wao hulia kwa Kiingereza.

*(Laughter)*

Singependa jambo hili lichukuliwe juu juu. Nikitembea mitaania, kuna Wakenya ambao nimesikia wakisema kwamba wanamjua Sen. Faki na Sen. Madzayo huzungumza Kiswahili. Pia, wewe Seneta wa Nairobi, jaribu wakati mwingine kuongea Kiswahili. Ubaya wetu hatujaongeza *sheng* katika orodha ya lugha kwa sababu niko na vijana wengi sana ambao wanaielewa.

Nimeona kwamba, wakati wenzetu wanajaribu kuzungumza Kiswahili, kuna hoja nyingi za nidhamu kwa sababu kile kiwango tumeweka Kiswahili kiwe sanifu si lazima. Wakati mwingine kuna utohazi wa lugha. Kuna maneno ambayo huwezi kutumia, labda utatumia tasifida ili watu waweze kuelewa na utumie maneno ambayo yanakubalika. Tusiwe wakali sana kwa kuangalia kanuni ama lugha iwe sanifu kama ya wale magwiji wa lugha. Tunataka iwe ni lugha ambayo watu wanaweza kuielewa na kujieleza kwa njia rahisi.

**Sen. Mutula Kilonzo Jnr.:** Asante, Bw. Spika, kwa kunipa nafasi hii.

Kiswahili kimeleta shida. Ninamkosoa ndugu yangu kutoka Homa Bay. Sisi tunajua Katiba ya Kenya imetafsiriwa. Niko na Katiba ambayo imeandikwa kwa lugha ya Kiswahili. Nimemuona Kamishna wa Parliamentary Service Commission (PSC), Beth Mugo hapa. Inafaa kutuekea bajeti ili Katiba ambazo zimetafsiri kwa lugha ya Kiswahili ziwekwe katika Bunge letu ili wale walio na uhodari wa kuzungumza au kusoma waweze kufanya hivyo. Kuzungumza ni rahisi lakini kusoma ni shida. Ndugu yangu Sen. Faki anasema amefurahi tunazungumza Kiswahili sanifu. Kiswahili ni cha kila mtu. Nilazima isisitizwe tuanze kutafsiri.

Ninashangaa kwamba katika maeneo ambayo tumetoka kule nyumbani, wakati bunge za kaunti zinafanya *public participation*, wanazungumza kizungu na kuandika

sheria kwa kizungu. Kwa hivyo, hawafuatilii mipangilio ya bajeti na miswada ambayo inafanywa, kama vile, Isiolo, Makueni, Kakamega, Siaya, Kisumu na kwingineko ambako hawana uzoefu wa kuzungumza Kiswahili. Wanapenda Kiingereza kuliko Kiswahili.

Bw. Spika, inafaa tutafsiri *Standing Orders* kwa lugha ya Kiswahili. Katika talakilishi ambazo ziko mbele yetu, kutakuwa na orodha ya kazi ambayo tutaifanya kama vile *Order Paper*. Sen. M. Kajwang' amesema, kwa umaarufu na umahiri tunauliza hoja iletwe ili tuweze kuiunga mkono na tupewe nafasi. Ninakumbuka utata wa 'mzungumzishi'. Tupewe nafasi ya kuwa na Kamusi ili Sen. (Dr.) Zani akileta maneno ambayo ni ya kutubabaisha sisi ambao hatuzungumzi Kiswahil, tunaweza kumjibu kwa haraka.

**The Speaker** (Hon. Lusaka): Kwa sababu tunaunga mkono hoja iletwe hapa, nitampa nafasi Sen. Cherargei atufungie kipindi hicho ili tuweze kuendelea.

**Sen. Cherargei:** Asante sana, Bw.Spika. Ningependa kuunga mkono ndugu yangu Seneta wa Mombasa 001 kwa kuleta Hoja hii. Katika Kipengele cha 7 cha Katiba ya Kenya kinasema kuwa Kingereza, Kiswahili na lugha ya ishara ni lugha za Bunge. Nakubaliana tuwe na taratibu ambayo imechapishwa kwa lugha ya Kiswahili na pia mfasiri wa ishara ili watu ambao hawawezi kusikia au kuzungumza waweza kupata nafasi ya kufuatilia yale ambayo yanajadiliwa katika Bunge la Seneti.

Ninaunga mkono Seneta wa Makueni ambaye ni gavana mtarajiwa. Ameanza kujipigia debe kwa kusema kuwa wakilishi wa wadi wahakikishe yale yote wanafanya yanaandikwe kwa lugha ya Kiswahili ambayo ni rahisi kwa wananchi kuelewa.

Sisi kama Seneti, lazima tuchukue hatua hii ili Wakenya wote wa tabaka mbalimbali ambao hawajapata nafasi kuelewa Kingereza wapate nafasi ya kufuatilia yale mambo ambayo tunajadiliana hapa na kuhakikisha wanayaelewa.

Wakati huu kuna mazungumzo ya kura ya maoni juu ya Katiba yetu hapa nchini. Ni vizuri Wakenya waweze kufuatilia mambo haya na kuyaelewa vilivyo. Jinsi ya kufanya hivyo ni kuhakikisha tumeiweka katika lugha inayoeleweka.

Bw. Spika, katika Umoja wa Kimataifa, kuna watu ambao wameanzisha changamoto ya kuweka Kiswahili kama baadhi ya lugha ambayo itatumika. Kwa hivyo, ni lazima sisi kama Seneti kutoa huo mfano na tuhakikishe tumesukuma gurudumu la kuhakikisha kila mtu amezungumza, kuandika na kuelewa Kiswahili hapa nchini.

**The Speaker** (Hon. Lusaka): Nawapa shukrani wote ambao wamechangia.  
Next Order.

## COMMITTEE OF THE WHOLE

*(Order for Committee read)*

*[The Speaker (Hon. Lusaka) left the Chair]*

## IN THE COMMITTEE

*[The Chairperson (Sen. Pareno) in the Chair]*

THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL  
(NATIONAL ASSEMBLY BILL No.10 OF 2018)

*Clause 3*

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to move—  
THAT, Clause 3 of the Bill be amended by inserting the following new paragraph immediately after paragraph (e)—  
(f) protect the benefits of the members of the Scheme.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clause 4*

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to move—  
THAT, Clause 4 of the Bill be amended in subclause (3) by inserting the following new paragraph immediately after paragraph (c)—  
(ca) gratuity; and

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clause 5*

*(Question, that Clause 5 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clause 6*

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to move:  
THAT, the Bill be amended by deleting clause 6 and substituting therefor the following new clause—

Board of Trustees  
of the Scheme.

- 6 (1) The management of the Scheme shall vest in a Board of Trustees of the Scheme.  
(2) The Board shall consist of—  
(a) the chairperson elected by the Trustees from among the members under paragraph (c), (d), (e) and (f);  
(b) the Principal Secretary responsible for matters relating to finance or a representative;  
(c) a person nominated by Council of Count Governors;

- (d) a person nominated by County Public Service Boards;
  - (e) a person nominated by County Assembly Service Boards;
  - (f) five persons nominated by most representative trade unions representing employees of county governments of whom at least two shall not be of the same gender as follows—
    - (i) four persons from trade union representing the employees within the county executive; and
    - (ii) a person from trade unions representing the employees within the county assemblies' service; and
  - (g) the chief executive officer who shall be an exofficio member and the secretary to the Board with no voting rights.
- (3) The vice-chairperson of the Board shall be elected by the Trustees from among their number.
- (4) The chairperson and vice- chairperson shall be of the opposite gender.
- (5) The Cabinet Secretary shall ensure that not more than two thirds of the members of the Board are of the same gender.
- (6) The Cabinet Secretary shall appoint the persons nominated under subsection (2) by notice in the *gazette*.
- (7) The procedure for nomination and appointment of Trustees under subsection (2) shall be as prescribed in the regulations.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clauses 7-9*

*(Question, that Clauses 7, 8 and 9 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clause 10*

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to move-

THAT, Clause 10 of the Bill be amended in subclause (1) by deleting the word “three” appearing immediately after the words “absence from” appearing in paragraph (e) and substituting therefor the word “two”.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clauses 11-16*

*(Question, that Clauses 11, 12, 13, 14, 15 and 16 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clause 16*

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to move—  
THAT the Bill be amended by deleting clause 16 and substituting therefor the following new clause—

Remuneration of  
Trustees.

16. The Trustees shall be paid such remuneration as the Authority may determine in accordance with the Retirement Benefits Act.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clause 17*

**Sen. Farhiya:** Madam Temporary Chairperson, I propose that my amendment be dropped because it is similar to the Committee’s amendment.

*(Proposed amendment to Clause 17 by Sen. Farhiya dropped)*

*Clause 18*

**The Temporary Chairperson** (Sen. Pareno): Proceed, Mover, Sen. Sakaja.

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to move—

THAT, Clause 18 of the Bill be amended by inserting the following new subclause immediately after subclause (4)—

(4a) The chief executive officer shall hold office for a term of three years and may be eligible for re-appointment for a further final term of three years.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clauses 19 and 20*

*(Question, that Clauses 19 and 20 be part of the Bill proposed)*

*Clauses 21 and 22*

*(Question, that Clauses 21 and 22 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Pareno): Proceed, Mover.

**Sen. Farhiya:** Madam Temporary Chairperson, I beg to move that Clause 21 and 22 be part of the Order Paper.

**The Temporary Chairperson** (Sen. Pareno): Kindly repeat what you have just said.

**Sen. Farhiya:** Madam Temporary Chairperson, I beg to move that Clauses 21 and 22 be part of the Bill.

**The Temporary Chairperson** (Sen. Pareno): Move clause by clause. Can we, therefore, start with Clause 21?

**Sen. Farhiya:** Madam Temporary Chairperson, I propose that Clause 21 be part of the Bill.

**The Temporary Chairperson** (Sen. Pareno): Sen. Farhiya, kindly approach the Table.

*(Sen. Sakaja Spoke off the record)*

*(Sen. Farhiya approached the Table)*

**The Temporary Chairperson** (Sen. Pareno): Proceed, Sen. Farhiya.

**Sen. Farhiya:** Madam Temporary Chairperson, I beg to move-

THAT, Clause 21 of the Bill be amended in paragraph (d) by deleting the words "provide regular information" appearing immediately before the words "on investment strategy" and substituting the words "submit reports on a quarterly basis."

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clause 22*

**Sen. Farhiya:** Madam Temporary Chairperson, I beg to move-

THAT, Clause 22 of the Bill be amended in subclause (1) by inserting the following new paragraph immediately paragraph (f)-

(fa) submit to the Board a report on a quarterly basis, of the reconciliations with respect to the funds held by the Custodian;

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

**The Temporary Chairperson** (Sen. Pareno): Proceed, Sen. Sakaja.

*Clause 23*

**Sen: Sakaja:** Madam Temporary Chairperson, I beg to move-

THAT, Clause 23 of the Bill be amended in subclause (2) by deleting the word “shall” appearing immediately after the word “administrator” and substituting therefore with the word “may”.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

**Sen: Farhiya:** Madam Temporary Chairperson, I beg to move-

THAT, Clause 23 of the Bill be amended in subclause (2) by-

(a) inserting the words “at least on a quarterly basis” immediately after the words “including access” in paragraph (d);

(b) inserting the following new paragraph immediately after paragraph(d)-

(da) keep and maintain proper books of accounts of the scheme;

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clause 24*

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to move-

THAT, Clause 24 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause –

(1) A member shall, so long as the member remains in the employment of a sponsor, contribute not less than twelve percent of that member’s pensionable emoluments to the Scheme.

*(Question of the Amendment was proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

**Sen. Sakaja:** Madam Temporary Chairperson, Sen. Farhiya also has an amendment to Clause 24 on (2) and (3), which we are also okay with.

**Sen. Farhiya:** Madam Temporary Chairperson, I beg to withdraw my amendment Clause 24(a) because it is similar to the amendment by the Committee.

*(Proposed amendment by Sen. Farhiya withdrawn)*

Madam Temporary Chairperson, I also beg to move-

THAT, Clause 24 of the Bill be amended -

(b) in subclause (2) by inserting the words “not less than” immediately after the words “contribute to the scheme”.

(c) in subclause (5) by deleting the words “on each occasion” appearing immediately after the words “salary of the contributor” and substituting therefore the words “in each month”.

**The Temporary Chairperson** (Sen. Pareno): Part (a) of the amendment is dropped.

*(Proposed amendment to Clause 24(a) dropped)*

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clauses 25-35*

*(Question, that Clauses 25-35 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clause 36*

**The Temporary Chairperson** (Sen. Pareno): Proceed, Mover; Sen. Farhiya.

**Sen. Farhiya:** Madam Temporary Chairperson, I beg to withdraw my amendment to Clause 36 because it is similar to the amendment by the Committee.

*(Proposed amendment to Clause 36 by Sen. Farhiya withdrawn)*

*(Question, that Clause 36 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clauses 37-43*

*(Question, that Clauses 37- 43 be part of the Bill, proposed)*

The Division will be at the end.

*Clause 44*

**Sen. Farhiya:** Madam Temporary Chairperson, I beg to move that –

THAT, Clause 44 of the Bill be amended by deleting subclause (1) and substituting therefor the following new subclause-

(1) The scheme shall be reviewed by an actuary appointed by the Board as provided for in the Retirement Benefits Act.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clause 45*

*(Question, that Clause 45 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clause 46*

**Sen. Farhiya:** Madam Temporary Chairperson, I beg to move:

THAT, Clause 46 of the Bill be amended in the introductory phrase in subclause (2) by inserting the word “actuary” immediately after the words “fund Manager.”

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clause 47*

*(Question, that Clause 47 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clause 48*

**The Temporary Chairperson** (Sen. Pareno): Proceed, Mover, Sen. Sakaja.

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to move –

THAT, Clause 48 of the Bill be amended in subclause (1) by deleting the words “two years” appearing immediately after the words “imprisonment for a term not exceeding” at the end of subclause and substituting therefor the words “five years.”

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end. Proceed, Sen. Farhiya with the further amendment.

**Sen. Farhiya:** Madam Temporary Chairperson, I beg to move:

THAT, Clause 48 of the Bill be further amended by inserting the following new subclause immediately after subclause (2)-

- (3) A person who is convicted of an offence under subsection (1) (c) shall, in addition to any fine that may be imposed, refund to the scheme three times the value of any loss that may be incurred by the scheme by reason of the commission of the offence.

*(Question of the further amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clauses 49-54*

*(Question, that Clauses 49 to 54 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clause 55*

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to move-

THAT, Clause 55 of the Bill be amended by inserting the following new subclauses immediately after subclause (6)—

- (7) The Auditor General shall cause an actuarial audit and valuation to be carried out with respect to the closed schemes within six months upon the commencement of this Act to ascertain the following for the purpose of transitional management—

- (a) assets acquired by the schemes;
- (b) liabilities accrued by the schemes; and
- (c) employees of the schemes.

- (8) The Auditor General shall submit a report on the findings of the audit and valuation to the Board, the Senate and the National Assembly within three months of carrying out of the audit under subsection (7).

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clause 56*

*(Question, that Clause 56 be part of the Bill, proposed)*

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to move-

THAT, Clause 56 of the Bill be amended by deleting subclause (6) and substituting the following new subclause—

- (6) The Retirement Benefits Authority shall, within five years from the commencement of this Act, ensure the implementation of this section.

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

*Clauses 57 and 58*

*(Question, that Clauses 57 and 58 be part of the Bill proposed)*

**The Temporary Chairperson** (Sen. Pareno): The Division will be at the end.

Let us have the Mover, Sen. Sakaja.

**Sen. Sakaja:** Madam Temporary Chairperson, I beg to withdraw proposed amendment to Clause 23 so that it stays as it is.

**The Temporary Chairperson** (Sen. Pareno): The proposed amendment is dropped.

*(Proposed amendment to Clause 23 by Sen. Sakaja dropped)*

*New Clause 59*

**Sen. Sakaja:** Madam, Temporary Chairperson, I beg to move-

THAT the Bill be amended by inserting the following new Clause immediately after Clause 58— Amendment of Section 132 of Act No. 17 of 2012 The County Governments Act is amended by deleting section 132.

*(Question of the New Clause 59 proposed)*

*(New Clause 59 read the First Time)*

*(Question, that the New Clause 59 be read a  
Second Time, proposed)*

*(Question, that the New Clause 59 be part of the  
Bill proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*The Schedule*

**Sen. Sakaja:** Madam, Temporary Chairperson, I beg to move-

THAT the Schedule is amended in paragraph 2 by deleting subparagraphs (1) and (2) and substituting therefor the following new subparagraphs—

(1) The quorum of a meeting of the Board shall be five Trustees present and voting and shall include at least two Trustees appointed under

section 6 (2) (b), (c), (d) or (e) and at least three Trustees appointed under section 6 (2) (f).

(2) For special meetings, the quorum shall be six Trustees present and voting and shall include at least three Trustees appointed under section 6 (2) (b), (c), (d) or (e) and at least four Trustees appointed under section 6 (2) (f).

*(Question of the amendment proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

*Clause 2*

*(Question, that Clause 2 be part of the Bill, proposed)*

*The Title and Clause 1*

*(Question, that the Title and Clause 1 be part of the Bill, proposed)*

**The Temporary Chairperson** (Sen. Pareno): Division will be at the end.

Hon. Senators, we are reporting progress on the Committee of the Whole on the County Government Retirement Scheme Bill (National Assembly Bill No. 10 of 2018). Let us have the Mover.

**Sen. Sakaja:** Madam Temporary Chairperson, on behalf of the Mover and pursuant to Standing Order No. 148 of the Senate Standing Orders, I beg to move that the Committee do report progress on its consideration of The County Government Retirement Scheme Bill (National Assembly Bill No. 10 of 2018) and seek leave to sit again tomorrow.

*(Question proposed)*

*(Question put and agreed to)*

*(The House resumed)*

*[The Temporary Speaker (Sen. (Dr.)  
Lelegwe) in the Chair]*

## **PROGRESS REPORTED**

THE COUNTY GOVERNMENTS RETIREMENT SCHEME BILL  
(NATIONAL ASSEMBLY BILL NO. 10 OF 2018)

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators we are now reporting progress of the Committee of the Whole regarding The County Governments Retirement Scheme Bill (National Assembly Bill No. 10 of 2018).

Proceed, Chairperson.

Sen. Pareno: Mr. Temporary Speaker, Sir, I beg to report progress that the Committee of the Whole has considered The County Governments Retirement Scheme Bill (National Assembly Bill No. 10 of 2018) and seeks leave to sit again tomorrow.

**Sen. Dullo:** Thank you, Mr. Temporary Speaker, Sir. I beg to move that the House do agree with the Committee in the said Report.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Is the Motion seconded? You request a Senator to second.

**Sen. Dullo:** Mr. Temporary Speaker, Sir, I request Sen. Sakaja to second.

**Sen. Sakaja:** Mr. Temporary Speaker, Sir, I second.

*(Question proposed)*

*(Question put and agreed to)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): We now go back to Order No.7 which is Statements under part two under Standing Order No. 51(1) P to be given by the Chairperson Standing Committee on Energy, Roads and transportation.

*(Resumption of Statements)*

ACTIVITIES OF THE COMMITTEE ON ENERGY,  
ROADS AND TRANSPORTATION

**Sen. Wamatangi:** Thank you, Mr. Temporary Speaker, Sir. I rise pursuant to Standing Order No. 51(1)(b) to make a Statement on the activities of the Standing Committee on Energy, Roads and Transportation for the period commencing 1<sup>st</sup> of January to 30<sup>th</sup> of June, 2019.

During the period under review, the Committee held a total of 23 sittings, considered two Bills, two Petitions, eight Statements and undertook two county project inspection visits.

With regard to Bills, one was The Kenya Roads Bill (National Assembly Bills No.47 of 2017). The National Assembly received the Senate amendments to the Bill, but did not concur with some of the amendments. This prompted the formation of a Mediation Committee as per Article 113 of the Constitution. The Mediation Committee on the Bill failed to come up with an agreed version of the Bill Pursuant to Article 113(4) of the Constitution.

Mr. Temporary Speaker, Sir, it is important that I put it on record that the Mediation in this Bill failed because Members nominated by the National Assembly to this Mediation Committee did not attend or commit to this Committee with an agenda of finding a middle ground or a resolution to a version of that Bill that is acceptable to both Houses.

Members of the National Assembly came to that Mediation Committee with one decision on mind and that was to scuttle the process. The process ended up with one of us being called names, ridiculed and there was shouting. At the end of the day, that Mediation process failed.

In that period, we also considered the Bill sponsored by Sen. Olekina on roads and pavements.

Mr. Temporary Speaker, Sir, regarding Statements, pursuant to Standing Order No.48(1), eight Statements were referred to the Committee during the period under review –

(1) Implication of the Lamu Port, South Sudan, Ethiopia Transport (LAPSSET) corridor in Isiolo County and its residents. This Statement was requested by Sen. Dullo who is the Deputy Senate Majority Leader.

(2) Status of Kajiado-Mashuru-Isara Road in Kajiado County. This Statement was requested by Sen. Seneta.

(3) The Status of Namanga Road was requested by Sen. Seneta;

(4) Transfer of the management of the operations of Jomo Kenyatta International Airport from the Kenya Airports Authority to the Kenya Airways Limited. That Statement was requested by Sen. Wetangula;

(5) The high parking charges in Institutions that offer public services, requested by Sen. (Dr.) Ali;

(6) State of the Isiolo International Airport, requested by Sen. Halake;

(7) Traffic offences by foreign registered public service vehicles (PSV) on Kenyan Roads, requested by Sen. Seneta; and specifically on vehicles registered in our neighbouring country, Tanzania, plying the route between Namanga and Nairobi.

(8) Compensation for land for roads construction and environment restoration during and after roads construction, requested by Sen. Pareno.

Mr. Temporary Speaker, Sir, the Committee has scheduled a meeting with the Cabinet Secretary and the relevant stakeholders during which Senators who sought these Statements will be invited to this meeting. They will field questions and interrogate the answers and responses from the Cabinet Secretary. We will communicate that date here to all the Senators and request them to be present so that we can fully address these issues.

One of the challenges we have been having is that when we seek Statements, sometimes the responses we get from our stakeholders, especially from the Ministries, are very scanty and lack content, such that we keep referring those Statements back. That is why we have chosen to have the Cabinet Secretary appear for a meeting to answer questions from the Senators.

Mr. Temporary Speaker, Sir, with regard to Petitions, the Committee considered two Petitions-

(1) Delayed compensation for people affected by the projects arising from the construction of the Eldoret Town Bypass Road; and

(2) Compensation for persons affected by the rehabilitation and capacity enhancement of James Gichuru A104 Highway Road project.

Arising from these Petitions, the Committee held site visits and further received submissions from respective project affected persons and respondents who included the Kenya Highways Authority, the National Land Commission and the respective

project contractors. The Committee has prepared reports on these Petitions which will be tabled in the Senate within the next few weeks.

Mr. Temporary Speaker, Sir, with respect to county visits, during the period under review, the Committee undertook three successful county visits-

(1) Inspection of the ongoing construction of the Western By-Pass Road Project in Kiambu County.

(2) Rehabilitation and enhancement of James Gichuru Road which is partly in Nairobi and ends in Kiambu. This is the road popularly known as Nakuru Road; and,

(3) County visit to Kajiado, West Pokot, Isiolo and Turkana counties; which this Committee undertook as one visit.

During the inspection of the Western By-Pass the project in Kiambu County which was undertaken on Tuesday, 12<sup>th</sup> March, 2019, the primary objective was to assess the project implementation status as per the original design, the scope of works, justification for redesigning that road, completion timelines and compensation of the affected persons.

The Committee is following up on the issues that emerged during that visit. It is noteworthy to say here, for purposes of clarity that one challenge that we encountered, which is an issue that needs to be resolved, is that contracts that are signed by the national Government on behalf of the people of Kenya, are signed under the arrangement of build, operate and transfer. Once the contracts are signed, you find that project designs change and sometimes they change to limit the scope. That change is not reflected in the charges that were originally agreed upon.

We have had two cases that require review. That is the Western Bypass Road and the James Gichuru A104 Road where works were reduced to the extent of almost Kshs2 billion to Kshs3 billion. This is only in the quantity of the scope of works, but not commensurate or reflected in what the project cost itself was. You expect that when that kind of redesigning occurs and there is a reduction in the initial input then definitely, there has to be a commensurate reduction in whatever was agreed upon as the project cost.

The other mission that the Committee undertook during these visits was to find out whether revision of the concept design of the bypass and subsequent reduction of the total hectares of land required from the 45 hectares up to approximately 21 hectares had any cost implications on the initial Bills of Quantities (BQ) upon which the original contract had been signed.

The Committee also went to find out if KeNHA and the National Land Commission (NLC) could provide the list of Corporate Social Responsibility (CSR) projects that were undertaken by this contractor.

The issue of CSR is a predominant problem within most of the projects that have been undertaken by the national Government. Largely, this is because at the time of conceptualization of these projects, the element of CSR was not included in the contracts. At the end of the day, for example, when a project worth Kshs20 billion has been signed - that being the contract sum - it then becomes the duty of residents to go and beg the contractors to undertake CSR. We have seen this in most of the visits we have done and the interactions we have had with most of our people.

The recommendation of this Committee is that, going forward, the Government must change its version. When a project is being conceptualized, the

element of CRS has to be included. It should be included in the contract, what these contractors will do in terms of giving back to the community, after being paid those billions. This should be included at the time of conceptualization of the project.

Lastly, Mr. Temporary Speaker, Sir, the Committee wanted to find out, the extent to which KeNHA and the National Land Commission have undertaken sensitization programmes on compensation of project-affected persons. This is a frequent problem that this Committee has encountered in the various parts of this country, including in Eldoret where squatters who have no major means of livelihood were ejected from their small businesses and shanties without compensation. This is a right that they should be able to enjoy.

I am proud to report that the Committee asserted its authority during those occasions. In the last meeting with the National Land Commission (NLC) and the Ministry, they confirmed that even squatters, business traders and anyone who has a stake in that project; whether they have a title deed or not, will be compensated. Most of them have been compensated.

Some of the squatters in Eldoret were paid an amount totaling to about Kshs300 million even before the big stakeholders were paid.

Mr. Temporary Speaker, Sir, the county visit to Kajiado, West Pokot, Turkana and Isiolo Counties focused on the following matters:

In Kajiado County, we went to inspect the ongoing construction of Phase 2 of the Standard Gauge Railway (SGR) with respect to compensation for demolitions at Nkoroi, environmental restoration, rehabilitation of Olosirkon Primary School in Tuala which was condemned due to the effects of blasting of an adjacent quarry to extract materials for construction of Phase 2 of the SGR. Further, the Committee followed up on disruption by the contractor on community boreholes.

This country saw and witnessed the horror of families when they were being ejected from their homes. They built these homes using their hard earned money. You find that families; children, wives and husbands were being ejected early in the morning, without compensation. They were being ejected from land that they own and structures that they had built themselves and they were not being compensated.

The Committee had a discussion and invited the community that lives near Olosirkon Primary School. This school had been condemned in total and children were studying and learning under trees.

Mr. Temporary Speaker, Sir, we invited the entire team from the Ministry and other stakeholders and the Committee asserted itself. As of now, I wish to report that an arrangement and agreement was arrived at that the contractor will construct another six classrooms after building the four classrooms. All the classrooms in Olosirkon Primary School that were affected will be rehabilitated and a borehole included to serve the school and the community.

In West Pokot County, the Committee went on an assessment of county initiated road projects which were undertaken by the county government using funds availed through The Division of Revenue Act, County Allocation of Revenue Act and the Roads Maintenance Levy Fund.

While in West Pokot County, we inspected a road which we would call a virgin road since none existed before. We wanted to see what county governments are doing. We witnessed that the county government had taken an initiative to construct a

completely new road with funds allocated to the county in an area hitherto without access. In our second visit, we will be seeking to see if this has been made a reality and if it has worked.

Mr. Temporary Speaker, Sir, we visited Turkana County to inspect the status of ongoing projects such as Lodwar Airport, County Headquarters, roads under Kenya Rural Roads Authority (KeRRA), Kenya National Highways Authority (KeNHA), Kenya Urban Roads Authority (KURA) and those initiated by the County Government.

The quick highlight from this visit is the state of the Airport at Lodwar, which is pathetic and has no security. This Committee made recommendations and also issued instructions to enhance security, not only of the airport, but also the public. During active hours of the airport, young children have access to the airport, where they would even cross the runway when an aircraft is landing. Goats too graze inside the airport during active hours. Given the state of our national security, an airport cannot be without security and basic fencing facilities.

Mr. Temporary Speaker, Sir, of ultimate surprise was the fact that in Lodwar Airport, with a turnover of about 400 passengers daily, there is no working fire engine. There is no existence of a fire engine in the entire Turkana County, but more so, in the airport. How can an airport with 20 flights daily; 10 incoming and 10 outgoing and 400 passengers in a day, function without a fire engine? What would happen during a disaster? We gave instructions and were assured that there will be a fire engine in the next three months.

Lastly, we undertook a visit to Isiolo County to inspect of Isiolo International Airport. This was in furtherance and follow-up on the Statement requested by Sen. Halake regarding the state of the airport. Further, the Committee scheduled a meeting with the Cabinet Secretary (CS) for Transport, Infrastructure, Housing, Urban Development and Public Works.

Mr. Temporary Speaker, Sir, the highlight on Isiolo Airport is that the Government has injected close to Kshs3 billion into the construction of that airport as of now. The best definition that would be given to the airport as of now is that it is a white elephant project. For a period of almost seven months, between January and July, the airport is reported to have serviced a mere 98 passengers. This is an international airport with a runway that cannot accommodate flights that are intended for its magnitude. There are several other issues too, including the cost of Kshs900 million to build a runway that cannot be functional right now, having barely been used.

Those issues were addressed by the Committee and we have got assurance from the relevant stakeholders. The Kenya Airports Authority (KAA) and the Ministry assured us that work is being done. We are in receipt of a budget in which they intend to address those issues.

Mr. Temporary Speaker, Sir, during the period under review, the Committee encountered various challenges, to a large extent compromising its operational efficiency and performance. Part of those challenges are-

(1) Inadequate responses from the Executive, which I have touched on, and will not repeat.

(2) Non-appearance by key stakeholders, sometimes resulting in summonses, which by far and large, are not very friendly encounters at times when there has to be enforcement.

Mr. Temporary Speaker, Sir, that is the way of the law. Sometimes when Committees in Parliament have had to resort to summoning of stakeholders, sometimes they arrive with a very lopsided version of interpretation of the intent of summons to mean that they are being forced to appear.

Mr. Temporary Speaker, Sir, allow me to put this on record in the Senate. We need to ensure that this impression that has been created that Parliament functions at the behest of other arms of Government – that it is okay for other operators in Government such as Cabinet Secretaries (CSs) and Principal Secretaries (PSs) not to appear and get their business done there and Parliament is supposed to accommodate it--- Once we resort to summoning a stakeholder who has refused to show up, then it becomes a point of being begrudged. We will be seeking intervention from the Chair. Sometimes when summons have to be issued, they have to be. Please, help us enforce that people have to appear and when they do not, then they face the consequences.

As I conclude, Mr. Temporary Speaker, Sir, I wish to inform the Senate that the Committee intends to carry out the following key activities during the next quarter-

(1) Organize a national level conference involving all county governments on assessment of the state of infrastructure financing and the implementation status.

(2) Table all pending reports before the Committee.

(3) Undertake project inspection visits to Isiolo, Samburu, Kakamega, Kisumu and Marsabit counties, respectively.

(4) Undertake an assessment of the Standard Gauge Railway (SGR) Phase 2 and a follow-up on compensation of affected persons and the rehabilitation of the Nairobi Commuter Railway System.

On this one, this House and Kenyans know that the promises have been made that we will have a functional mass rapid transport system within no time to ease the traffic congestion that has bedeviled and cost us loss of billions of shillings every year. It could be dealt with if the Nairobi Metropolitan Area Transport Authority (NaMATA) does what it is supposed to do according to the authority given to it. We intend to pursue this to ensure that this work is done. We will not just have red lines drawn on highways and, at the end of the day, they are not functional or useful, but just mere window-dressing.

(5) Lastly, we intend to interact with counterpart committees of the Council of Governors (CoG) and county assemblies on various emerging issues.

Mr. Temporary Speaker, Sir, I beg to table.

*(Sen. Wamatangi laid the document on the Table)*

**Sen. M. Kajwang':** On a point of order, Mr. Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is your point of order, Sen. M. Kajwang'?

**Sen. M. Kajwang':** On a point of order, Mr. Temporary Speaker, Sir. There is something extremely significant that the Chairperson of the Committee on Roads and Transportation has raised in his Statement. Allow me to also congratulate him for that detailed Statement. It is just a few hours ago that I saw him standing next to *Baba* and the President somewhere in Ruiru. It shows his commitment to his parliamentary duties that he had to leave the high table to come back here and serve the people of Kiambu County. I hope the House shall note that even as we make our comments.

**Sen. Cherargei:** On a point of order, Mr. Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it, Sen. Cherargei?

**Sen. Cherargei:** Mr. Speaker, Sir, I hate to interrupt my good friend and Chairperson, Sen. M. Kajwang'. Does it mean that sitting with Hon. Raila and President Uhuru at the high table is more than the mandate that Kenyans gave us, as the Senate? I thought that this is the higher calling. Could he substantiate? Is it because *Baba* was present in that meeting or President Uhuru was there? From my understanding, he means that being in the Senate is the lower table. He should substantiate that.

**Sen. M. Kajwang':** Mr. Temporary Speaker, Sir, the Senator for Nandi behaves the way old women behave when bones are mentioned in a proverb. I did not even call the name of Raila in my earlier statements; I talked of *baba*. For his information, the Governor for Kiambu is officially called *Baba Yao*. I was, therefore, probably referring to the Governor for Kiambu.

Mr. Temporary Speaker, Sir---

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Order, hon. Members! Order! Sen. M. Kajwang' is on a point of order; so, I will not give any other point of order.

Proceed.

**Sen. M. Kajwang':** Thank you, Mr. Temporary Speaker, Sir, for protecting me. I just wanted the Chair to help us understand the way forward, now that there is an impasse on The Kenya Roads Bill.

Mr. Temporary Speaker, Sir, a few years ago in this Senate, we passed a resolution pending substantive passage of an Act of Parliament to deal with the roads sector. We passed a resolution that roads classified as Class A, B and C would be for the national Government while Classes D and below would then be managed by county governments and funds would follow. However, a year later, the national Government failed to implement that Motion that had been adopted by the House.

Consequently, the relevant Ministry came up with a fresh classification scheme through which they attempted to reclassify roads so that national Government would remain with more kilometres of roads at the expense of counties. A year later, The Kenya Roads Bill came. We had hoped that this Bill was going to sort out all these inconsistencies and anxieties that had been there in the roads sector.

Mr. Temporary Speaker, Sir, if The Kenya Roads Bill discussions around mediation have collapsed, what directions should counties take? Should they go back to the earlier Motion that was passed by this House? Should they start dealing with categories D going downwards? Further, could the Chair also tell us if the new classification scheme that this house rejected – I was in the Committee on Roads and Transportation in the last Parliament and I remember we rejected that new classification scheme - is in place and being enforced by the national Government?

Thank you, Mr. Temporary Speaker, Sir.

**Sen. Cherargei:** Thank you, Mr. Temporary Speaker, Sir. I have heard the distinguished Senator for Kiambu County – who has the most votes in this country - Sen. Wamatangi. He was hosting a high delegation today when they were launching one of the Presidents' Big Four Agenda, which is manufacturing. I have only two comments.

Mr. Temporary Speaker, Sir, I appreciate the report and challenges that the Committee on Roads and Transportation have brought. I thank Sen. Wamatangi for being very steadfast because I know that chairing such a committee is not easy. We were

together in the Kenya Roads Bill Mediation, and he stood his ground. I applaud him for protecting the Senate at that point. I know that he has been protecting the interest of Kiambu residents. We are proud of him as the Chair of the Committee on Roads and Transportation.

Mr. Temporary Speaker, Sir, there are only two things as a follow up for me. In Nandi County, there is a contractor by the name Civicon Limited, who was given around five roads. I would wish the Chair to follow up with the relevant authorities, be it the Kenya Urban and Roads Authority (KURA), the Kenya National Highway Authority (KeNHA), or the Ministry of Transport, Infrastructure, Housing & Urban Development. There are around five roads that were given to Civicon Limited, which were later reassigned to China Number 10. Those roads are as follows; Lessos to Kesses, Nandi Hills Town to Himaki; Cheptiret to Moi University, Rivatex to Kapkatembu, Chepterwai Singilet to Kaiboi, and the one from Chemuswa all the way to Denja. Those roads were reassigned, but up to today, the company that was reassigned those roads has never worked on them.

Mr. Temporary Speaker, Sir, I would request the Chair through you – who is engaging in animated conversation with the Temporary Speaker, Sen. Pareno – to follow up on the five roads that I have mentioned.

Out of the five or six roads that I have mentioned in Nandi, nothing is going on, yet money was allocated, and the contracts were reassigned to China Number 10. I request the Chair – because he is a very frequent visitor of Nandi and he knows Nandi County very well – to follow up on those five roads. The rainy season is ongoing, but we want those contractors to proceed. This is not a unique case to Nandi County. Go to any other county, roads were allocated, contractors were identified, and up to today, those roads being upgraded to bitumen standards has never been done.

Mr. Temporary Speaker, Sir, I humbly request the Chair for the Committee on Roads and Transportation to assist. He should be part of ensuring that upgrading most of the roads in Nandi County to bitumen standards is done. I believe in his Committee. I hope that he will visit those sites, so that he can verify that there is no work going on in the five roads that were earmarked for upgrade to bitumen standards in Nandi County.

Mr. Temporary Speaker, Sir, I congratulate the Chair of Committee on Roads and Transportation for a job well done. After this, I might decide to buy him coffee.

*(Laughter)*

**Sen. Dullo:** Thank you, Mr. Temporary Speaker, Sir, I wish to take this opportunity to thank---

**Sen. Farhiya:** On a point of order, Mr. Temporary Speaker, Sir.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): What is it, Sen. Farhiya?

**Sen. Farhiya:** Mr. Temporary Speaker, Sir, I was a bit disturbed by the comment made by Chair of the CPAIC, that Sen. Cherargei is behaving like an old woman. What is wrong with an old woman who has aged gracefully? Let us not use unparliamentarily language in this House. Can he apologize and withdraw?

*(Laughter)*

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Proceed, Sen. Dullo.

**Sen. Dullo:** Thank you, Mr. Temporary Speaker, Sir. Let me take this opportunity to thank the Chair of the Committee on Roads and Transportation for that wonderful report. I wish that after visiting those counties, more so Isiolo County, they would come up with recommendations that will solve the challenges we have on the ground. They should also make sure that the recommendations are implemented by the relevant departments of the Ministry.

Mr. Temporary Speaker, Sir, we have a lot of problems in the counties, where you will see that the roads that are being constructed by the national Government are being claimed by the county government, simply because the signboards are not there. That has created a lot of confusion in the counties. I would, therefore, request the Chair of the Committee to advise the relevant departments of transport to put up signboards to indicate that this particular project is being carried out by the national Government and not the County government.

Finally Mr. Temporary Speaker, Sir, I know that this is the mandate of county governments, but most of the road works that are done by the county governments are substandard. This is simply because the county governments do not have qualified engineers who supervise these works. The Government continues using a lot of money in those counties in the name of road construction where, at the end of three months, that road work is nowhere to be seen.

Mr. Temporary Speaker, Sir, the Chair of the Committee should kindly take up those issues and see how they can help counties and also members of the public.

Thank you, Mr. Temporary Speaker, Sir.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to support the statement made by the Chair of the Committee on Roads and Transportation. This Committee plays a vital role in many senses. In terms of the economic sense, without proper roads, it will become impossible for some counties to do business with other counties. Therefore, when it comes to issues of accessibility, this Committee comes in handy.

Roads also have social benefits. With viable infrastructure, people can set up factories in their counties. Consequently, when investments are in place, they will create employment opportunities for the youth.

Mr. Temporary Speaker, Sir, roads also bring benefits to the education sector. This is because investors who would want to invest in education will look for places which are accessible. If they are not accessible, nobody will build schools and colleges for our people.

When this Committee talks of accessibility of roads in the counties, they have to make sure that what they are talking about is practical. The roads in some counties are inaccessible. This Committee needs to pursue that at the county level. In some areas when it rains, people are unable to drive to their homes. I was once a victim. The residents informed me that my road was inaccessible. The counties should ensure that the roads are accessible, so as to encourage many activities in the counties.

People should not move from the rural areas to the urban areas because of good roads, investment and employment opportunities. Accessible roads make it easy to retain people in the remote areas. Those people can farm and take their crops to the outside world.

This Committee is doing a commendable job, but it should ensure that their services reach Kenyans at the county level. Enough money should be allocated for roads and transport so as to ensure accessibility for the local people, especially the farmers. Most places are inaccessible because of poor roads and the farmers in those areas are left with no option other than feeding the cows with their produce.

In Maragoli, for example, people plant a lot of avocados. We all know that avocados are very expensive in towns. However, if you go to Maragoli, you will buy a whole basket of avocado that has around 100 them at a cost Kshs50. They sell them cheaply because they are unable to access the outside world. Good roads benefit farmers. Therefore, let us construct good roads to open up our counties.

This construction of roads in counties must be done in a transparent manner. Some of the roads constructed in the counties become impassable when it rains. This Committee must ensure our roads are tarmacked and durable. It should also make sure that all county roads are motorable.

Sen. Wamatangi should press on with this task. Going to all corners of this country may not be easy, but he should do the best that he can in serving the citizens of this country.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Next Order.

### MOTION

#### ADOPTION OF THE CPAIC FIDUCIARY RISK REPORT ON AUDIT ISSUES FOR FYS 2012/13 TO 2015/16

*(Sen. M. Kajwang' on 24.7.2019)*

*(Resumption of debate interrupted on 24.7.2019)*

THAT, the Senate adopts the Report of the Senate Sessional Committee on Public Accounts and Investments on the Fiduciary Risk Report on audit issues by County Governments for the Financial Years 2012/13 to 2015/16 laid on the Table of the Senate on Wednesday, 10<sup>th</sup> July, 2019.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Chairperson, do note the concerns that the Hon. Members have raised for further action.

**Sen. Cherargei:** Mr. Temporary Speaker Sir, can I donate some of my minutes to Sen. Ochillo-Ayacko? He wants to move an amendment.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): It seems that you are not ready. I will now give this chance to Sen. Ochillo-Ayacko. He has already placed his request.

**Sen. Cherargei:** Mr. Temporary Speaker Sir, can I proceed? Okay, thank you.

I want to thank Sen. M. Kajwang' for the Fiduciary Risk Report on audit issues by County Governments for the Financial Years 2012/13 to 2015/16. The Report is very detailed. I thank the Senator for Homa Bay County and the next Governor for this meticulous Report. We celebrate him as a Chairperson. Sen. M. Kajwang' is very efficient and Senators respect him because of that.

I have attended some sessions that he has chaired and I liked the way he conducted them. I know that he will move the prudent use of resources in this country to the next level. As he goes for the big seat, Governor of Homa Bay County, he has our blessings. I will ensure that there is timely disbursement of resources to his county because some of us will be in the Government.

The issues that I have been raising here are the same issues affecting our counties. The issues raised here are the same issues being faced by the second generation of governors. We must try and fix all these issues. The problems in this Report are the same things that we have been discussing. They are own source revenue, reallocation of resources, pending bills, wage bill, collection of tax, missing tax targets and funding of Council of Governors operations. President Uhuru Kenyatta spoke a few hours ago and he said that there is no money though we want more money for the counties.

This Report has raised critical issues. I will run through my contribution because my colleagues would also want to debate on this Motion. The major problem in the counties is reallocation of funds by the county governments which is unfortunate. Nandi County Assembly adopted a report in April that indicated a misappropriation of about Kshs13 million that was meant for bursary. When the CEC in charge of Finance was pressed to explain, he said that he reallocated that money. It was used to buy fuel for lorries. Therefore, reallocation of funds is a major problem affecting most counties.

The Public Finance Management Act (PFMA) clearly states that money meant for specific project must be retained there until and unless there is a process that has been provided for. I know that this problem is not just unique to my county. Some governors allocate money to drugs, but shift it to other things. They at times allocate money to roads, but use that money as recurrent. That is why the absorption rate for development is very low. According to the Auditor General, my county returned Kshs1.7 billion to Nairobi yet the money was meant for development. In my county, the wage bill was at 35 per cent when Governor Lagat was leaving the office.

The wage bill was at 35 per cent which was acceptable; it was about Kshs1.8 billion or Kshs1.9 billion. When the new Governor Sang came in, he raised it up to Kshs2.3 billion, that is around 49 per cent. Where is the money that is meant for development? There are quite a number of counties whose recurrent expenditure that goes to the wage bill is much more than what is allocated.

The second issue is on the pending bills. I am told by the Chairperson of the County Public Accounts Investments Committee (CPAIC) that the Auditor-General, as he enjoys his sunset time in that office, is supposed to appear before the Senate on Monday to answer on the report that he did on the pending bills. It was shocking to the country that out of Kshs108 billion that was meant for pending bills, there were a lot of billions that were meant to be fake pending bills.

In my county, close to Kshs400 million was being called fake pending bills. We will join the Chairperson and the Members of CPAIC on Monday so that we can critique and question the Auditor-General. We want to find out who is this person that would want to claim fake pending bills? Where are they taking money? We want to urge the Director of Public Prosecutions (DPP) and Director of Criminal Investigations (DCI) to investigate the fake pending bills in our counties and somebody must be held accountable.

The third point is that I have seen another unique thing which was common in Nairobi City County; they have incurred huge bills in legal fees. You will find most counties are outsourcing the legal services. That has become a big problem in our counties. Counties should not outsource their legal services. Under my Chairmanship, we have the County Attorney Bill which will create positions that will assist county governments to create vibrant legal departments. It will also guide them to carry out their operations within the law so that they do not risk being taken to court.

I know most county governments have been taken to court on issues to do with human resource, procurement, hiring and many others. Our Committee on Justice Legal Affairs and Human Rights Committee appreciates the fact that the National Assembly is sometimes mischievous, but we hope they will pass this County Attorney Bill so that we can have county attorneys.

Number four, my Committee and the Committee on Labour and Social Welfare are considering a Bill on ensuring that we create a law on County Public Service Boards (CPSB). This CPSB will assist in streamlining the hiring of human resource in the country. It will also ensure that this issue of requesting for work on the streets and in funerals stops. I have seen the Leader of the Orange Democratic Movement (ODM) has requested that the MP for Gatanga, Hon. Peter Kenneth be given a job. There should be a law to address that. I know, Sen. Wamatangi can confirm that since he was there.

Today in the afternoon, we were looking at the County Retirement Bill and I am happy that it has gone through the process of the Committee of the Whole. The Members of County Assemblies (MCAs) also have an issue with their pension. I hope we will be able to factor in this issue. Yesterday we were discussing a retirement package for the councilors. This Bill will allow them to get their money.

Fifth is the funding by governors and this is where the catch is. Most governors are funding the operations of the Council of Governors (CoG) and yet the National Treasury should be the one funding the Governors. In the Audit Report for Nandi County, Kshs2.6 million, was sent to the CoG for its operations for nine months. That money is being used to hire choppers. Where are these governors flying to? I thought they should be allocating more money for development. They should not be flying around. How do you fly when there is no money?

We are now busy fighting for more resources to go to counties. We are fighting for Kshs335 billion. I want to thank the Chairperson of the Senate Committee on Finance and Budget because he has published a Bill that Kshs335 billion should be added to the counties. However, right now, governors are living in opulence; they are flying around with choppers.

This issue of county governments are funding the CoG should stop. We had expressed this to the CoG Chairperson, Governor Oparanya that he must ensure that the money is funded through the national Treasury. It should not be funded through the money that is meant for Wanjiku, Otieno, Kiprono in funding for bursary and drugs. That is very important. According to the Report of the Auditor-General, Kshs2.6 million was used to hire a chopper for the Governor of my county.

The last point is on the Transitional Authority (TA). I think those people who chaired the Transitional Authority must be charged and surcharged because there is no register of assets and liabilities in Migori County to date, showing what was inherited

from the previous administration. Where is the register that will show that there were these assets and liabilities in Kiambu County?

The people who chaired the Transitional Authority must tell us where the assets and liabilities of the counties are. They must be charged because people lost tractors, land and many other assets, which no one has accounted for, to date. This Report is very good and I want to urge my colleagues to ensure that we support and pass it.

Finally on the audit of committees, counties should comply with internal controls and mechanisms. I want to thank the Nandi County Assembly because yesterday they adopted a report of the *ad hoc* committee on the disappearance of cement, tires and iron sheets and the loss of Kshs200 million meant for ECDE.

I want to commend them from the Floor of the Senate and say that they are playing well their role of primary oversight. Therefore, I would like to invite MCAs from the Chair's county assembly to visit Nandi County Assembly to learn how to become the primary oversight and ensure they protect the public resources that were entrusted to them.

Somebody somewhere has stolen their cement, sand, iron sheets and Kshs200 million, plus and Kshs13 million that was meant for the bursary. According to the recommendations of the *ad hoc* Committee of Nandi County Assembly, the relevant investigative authorities like DPP, DCI and Ethics Anti-Corruption Commission (EAC), must move in with speed. They have recommended that a lifestyle audit must be done for the Governor and other senior Government officials as soon as possible so that justice can be done for the people of Nandi County.

Thank you.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Temporary Speaker, Sir, for giving me an opportunity to speak to this Motion. You also had intended to move a Motion proposing an amendment to this Report. I will go by your guidance whether to move that first because I would wish the amendment to be dealt with, then we look at the substantive Motion.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): The proposed amendment is not connected with the substance of this Motion and its effect would be to amend the Standing Orders through the Motion. The Standing Orders have a provision for the amendments. Therefore, your amendment is declined.

**Sen. Ochillo-Ayacko:** Thank you, Mr. Temporary Speaker, Sir. Let me then talk to the main Motion that is before this House. The CPAIC of the Senate is a very important Committee. I must appreciate the fact that this Committee has done a commendable job. It has worked tirelessly to ensure that a modicum of accountability is realized within the mandate of our august House; the Senate.

Oversight is one of our constitutional and primary functions and we must carry it out. If we do not carry out oversight, we as a House risk the possibility of being relegated to a vestige, irrelevance and a mere talk shop.

Mr. Temporary Speaker, Sir, I take this opportunity to tremendously commend, with a lot of humility, the good work that my neighbor, Sen. M. Kajwang, has done as the Chairperson of this Committee. I also commend the good teamwork that has been exhibited by the exemplary contribution made in coming up with this report by the Members of the Committee.

On my own behalf, I appreciate the cooperation and the extent to which it happens by those who appeared before this Committee. If those people did not appear before this Committee, there would have been nothing to discuss. I commend them for complying with what the law stipulates and for appearing before the distinguished County Public Accounts and Investment Committee to try and account and respond to issues that were brought before the Committee.

I also must commend you, as the Speaker of the House, for supporting this Committee. In my understanding, this is the most important Committee.

Lately, you have heard some characters say that the Senate is not doing its rightful work. Those characters evaluate the work of the Senate on the basis that the Senate does not prevent the runaway graft, governance issues and malfeasance in counties. They rightly do so because year in, year out, the Auditor-General captures the same issues that are supposed to have stopped. Oversight, in my understanding is effective when supreme audit institutions do not capture repeat offences that are done by those that are being oversighted.

If you look at the period in question, that is 2013 to 2016, you will find that it reads the same way every year. It reads about irregularities done by all the counties. It is as if all these governors went to the same school, were taught by the same teachers and were choreographed to carry the malfeasance in the same manner the same year. They seem to think that no action would be taken against them. So, when other evaluators of the performance of the Senate say that the Senate does not work, it is because these violations are captured year in, year out.

Mr. Temporary Speaker, Sir, having said that, I am happy that through our Committee, we have captured some of these things for the years 2013 to 2016. However, this report indicates certain limitations that need to be addressed. One of the limitations that I have captured in this report is that, it has come so late in the day. Financial Year 2013/2014 passed and nothing happened. The same applies for financial years 2015/2016, 2016/2017. We are now discussing violations that were done in 2018.

I do not fault the Committee that has done this good work. However, we must admit that the scope and intensity of coverage has suffered certain limitations. May be, it is because of factors that are not contained in this report. My understanding and suspicion is that County Public Accounts and Investment Committee has been overwhelmed. We have 47 counties and there is a limitation in terms of its membership and personnel who are supposed to assist the Committee. If the Committee had an enlarged membership and more support, they would have covered the period that the Auditor-General audited public accounts that were given to counties in a timely version. Perhaps in 2019, we would be discussing a report that is current.

Mr. Temporary Speaker, Sir, if you set aside the issue for whether the report is current or not, you will notice that from the report, the audited accounts of all county assemblies were not attended. I do not fault the Committee for not doing so. In my previous life, I have served in other Committees. Therefore, I know the constraint that Members of the Committee have. If you look at the reports of the Auditor-General, you will find that a lot of public money is lost when county assemblies meet without purpose, when they pay themselves allowances without following procedures or when they engage in activities that are contrary to the law. So, it would be important for this House to

empower the County Public Accounts and Investment Committee to oversight county assemblies as well because those are areas of enormous expenditure.

The County Assembly of Migori where I come from, spent public money that amounts to Kshs750 million annually. That is not pocket change. Homa Bay County spends a similar amount of money and other counties also spend so much money. Therefore, it is important for our oversight Committee to also have opportunity, time and resources dedicated to looking at the accounts of our assemblies.

Mr. Temporary Speaker, Sir, our counties also have investments and other bodies that use public funds. If you look at this report for the period under review, you will find that our County Public Accounts and Investment Committee did not get sufficient time to look at public accounts and audits in relation to those areas.

The officers, in violation did not come face to face to explain what they were doing before the Senate. This is something that has been happening because we have not given capacity and resources to our County Public Accounts and Investment Committee. It has allowed the accounting officials in counties the pleasure of misusing public money knowing that they will not be made to account for the same amount of money before the County Public Accounts and Investment Committee.

That has led to the proposition that informed the suggestion that there is need to amend our Standing Orders to expand the Membership of this important Committee. It would have sub committees which would address some of those thematic areas of audit and oversight. That way, we will be in tandem and comprehensive in terms of holding institutions to account for the public funds that we give them.

Mr. Temporary Speaker, Sir, we know well that there is wastage. In order for this wastage to be stopped, the people responsible must visit this House and seriously be given an opportunity to be heard on why this wastage has been going on year in, year out.

I have looked at the audit queries that arise in my county. Every year, the Committees of that assembly leave the assembly claiming to go somewhere to write reports.

Although they leave the assembly to go to other places to write reports, when the Auditor General invites them to present records that they were involved in such activities, those records are not available. When they avail some skeleton records, those records indicate that not everybody attended, yet money was taken out in cash to give presumably the ghost attendees.

If we, as a House, are relying on the county assemblies to carry out some primary oversight on the county governments, but they are carrying out their business as if they are criminal enterprises, we would be failing in our responsibility. That is if we do not give time and attention to some of the practices that are prevalent in the county assemblies, so that members can come before the distinguished Committee chaired by my good friend, Sen. M. Kajwang, and explain why they are involved in graft. They should explain why they allow graft, yet they are the one who should be leading by example and also ensuring that they follow the law.

If they do not follow the law as the county assemblies, it would be very difficult for them even to discuss the conduct of the county executive committee members. It would also be difficult for them to hold to account county officials, such as the county public service boards and other organisations within the county that are supposed to account directly to them. It is, therefore, important that we get to this and ensure we have

comprehensive and timely audit, and also have a follow-up mechanism to ensure that counties are not involved in repeated violation of the laws and regulations, in so far as handling public finances is concerned.

Mr. Temporary Speaker, Sir, I wish to commend the Senate CPAIC for doing a good job. I am relatively new to the Senate, but had the pleasure and opportunity to participate in the proceedings of this Committee when they invited my governor. My governor appeared before that Committee in his most arrogant sense. He was abrasive and rude to the Committee, but I am happy that the Committee Members maintained their cool and were able to cause him to respond to the issues that were pertinent at that time.

However, it was reported that the records for the financial transactions of Migori County for the Financial Year 2017/ 2019 amounting to Kshs1.5 billion were not traceable. I urge the Committee to ensure that the people of Migori are protected and their funds are accounted for. The Committee should also ensure that the usage of those funds is done in accordance to law and the value for which those funds are put are beneficial to the public. Up to now I am not in the know as to how the Kshs1.5billion was utilised. I would like this Committee, as they continue with their oversight, to ensure that the funds have been accounted for.

The governor claimed that the records were burnt, the same way the County Government of Kitui claimed. It is a criminal offence not to protect those records. It is important for us, as a House, through the Committee or otherwise, to ensure that crimes associated with destruction of public documents are followed to the end. This is because if we allow counties to destroy public record and those responsible for the safe keeping of those records not to account for the activities, I can assure you that to avoid audit queries, they will all burn the records. There will be nothing to be done because they will attribute that the acts of some surreptitious or unknown persons.

Mr. Temporary Speaker, Sir, it will be very important for the people of Migori and this House to insist that our county governments and the people responsible bring the proper records in a timely way. I am happy that the court made a decision yesterday that governors who will be charged with offences relating to what they do at their place of work, should step aside and people who are more willing to be faithful and committed to adherence to the law should take that opportunity and continue running the counties. Their deputies will take over the running of the counties.

It would be very important for this Committee to ensure that governors who do not want to follow the law and may be charged for not doing so in so far as oversight and accounting are concerned, are brought to book knowing very well that they will be asked to step aside from their offices, so that we have orderly counties and mode of operation. Everybody should be responsible and held to account.

Mr. Temporary Speaker, Sir, with those very many remarks, allow me to congratulate Sen. M. Kajwang' and his very good neighbour, Sen. Wamatangi, for the good work they have been doing. I can see it has caused trouble in Kiambu County, but based on good work. Governor of Kiambu be warned. When you are charged, you must step aside and allow your deputy that you dislike to run the county. Governor of Homa Bay and Governor of Migori be warned that if you do not obey or follow the law--- Your Governor of Samburu County should also be warned and step aside. That warning goes to all governors who have a penchant of disobeying or violating the law.

Thank you.

**Sen. (Dr.) Musuruve:** Thank you, Mr. Temporary Speaker, Sir, for giving me this opportunity to thank Sen. M Kajwang' for coming up with this Report. It must be known to all Kenyans that in carrying out an audit report, the Senate is not out to catch anyone on the wrong. The audit report is good because it helps us authenticate our work as the Senate.

Article 96 of the Constitution stipulates our role, which is to represent the interests of the counties. We are also supposed to determine the national revenue that goes to the counties. In our purpose of doing what Article 96 demands, the audit reports are very important. There is need for us to corroborate the audit reports and our functions in the Senate to see whether we are getting anywhere. This is for the purpose of ensuring service delivery to Kenyans.

Mr. Temporary Speaker, Sir, audit reports are very important for various reasons. One, they ensure efficiency of those in public office. Apart from even ensuring efficiency they also ensure accountability and credibility. They are, therefore, an eye opener as to whether or not things are going on well.

An audit report is good because it reduces the incidences of corruption. We cannot say that audit reports can phase out corruption. As the Senate, we need to see how we can keep reducing corruption until we eliminate it, because eventually that is where we are heading.

Even governors should know that when the Senate goes to do an oversight, it is not witch-hunt. It is just for the purpose of ensuring that we are helping them ensure that whatever programmes that are done in the counties are aligned to the amount of money that was allocated to the county. We sometimes do not want to send little money to the counties to avoid counties being starved from doing their projects. Therefore, an audit report is good because it will bring out some issues, which will be an eye opener for the purpose of ensuring that we are representing county governments and their interests.

Mr. Temporary Speaker, Sir, the audit report is very independent and objective. When Sen. M. Kajwang' goes to look at an audit report, he cannot predict what to find. However, the findings he gets from the audit tools, like the books or records, will be an indicator of what is happening in the county. Therefore, after doing an audit, that is when they can say: "This is the report we found." It is, therefore, a very objective, transparent and well-meaning process.

The tools that Sen. M. Kajwang' used, on financial audit, performance audit, investigation audits, advisory audits and all that, are tools that help in promoting credibility of the programmes being done in counties. They are also tools that help to see to it that whatever amount of money that was taken to the county was used for the intended purpose. That way, from the audit report, it is possible to know how much more money ought to go to those counties.

Consequently, if there are any queries, they then ought to be addressed. Even when governors are called to explain these queries, it is not in bad faith. It is just for the purpose of ensuring transparency, accountability and credibility of the officials who are mandated to oversee public funds. That is why sometimes when shocking revelations come from the citizens and audit reports, of course, the auditors will have emotional stability for the sake of the people of this country.

Mr. Temporary Speaker, Sir, there are also some issues that came out in the audit report, like the issue of pending bills, which should not arise. There is need for

contractors and suppliers to be paid when they have completed their jobs. Therefore, pending bills should actually not be there; and they should be addressed within that financial year so that they do not spill over to the next financial year.

As we talk about contractors, upfront payment to them before the job is done should not arise. In fact, audit reports should show a staggered kind of payment so that if the contractors did something at the base level, they are paid at the base level. If they continue to the next level, they are then paid at that level. Consequently, when they complete the project, they are then given the optimal payment. However, the issue of contractors being given the optimal payment before they even complete the work is unfair to Kenyans, this nation and county governments. That should not happen in our counties.

Mr. Temporary Speaker, Sir, apart from the pending bills, let me speak on the old local authorities that were there before county governments came in. These local authorities already had properties, and there is need for the properties to be identified for us to know their worth. If there is any compensation that ought to be done, it should take into account the value of money at this moment, and not at that moment. This is because money depreciates. Therefore, there is need for compensation to be done in a manner in which the old authorities will not go at a loss.

Regarding the matter of human resources, the audit report says that a lot of money went into salaries and all that, which should not arise. In fact, there is need for counties to look for mechanisms of ensuring that they are catering for their wage bills. County governments have two ways of getting revenue; that is from the national Government, and from the tax they collect within their counties. Therefore, they need to devise mechanisms of ensuring that salaries are paid, so that whatever money that comes from the national Government goes to development. I am speaking about this issue because it is clear that there are so many developments that ought to have been done in the counties but are stagnant.

Mr. Temporary Speaker, Sir, at one point, I went to my county and did not see Early Childhood Development (ECD) schools, yet that is a function of the local Government. In some counties, you will find that residents are unable to access water. This should not happen, because water is a basic need. It is not something we can debate about. Water is something that is mandatory and obligatory and the people must get clean water. There are some counties where there is no water at all, and I do not know how the people there survive. Some schools in some counties even lack water. Therefore, there is need for money to go into such projects.

Regarding oversight, we are not supposed to have a weak assembly. Members of County Assemblies (MCAs) need to be empowered for them to do their oversight role. When you go to some counties, some MCAs have actually forgotten their roles, and they are doing something different. They have been pocketed and actually abdicated their work. If that is not the case, then they have forgotten; if not that, then they are not aware of their role.

There is need for capacity building of MCAs on how they can oversight their counties. Apart from that, there is need for them to be empowered financially so as to do that. You cannot oversight on the media or in newspapers. They need to physically oversight the projects and question them where they find that money for water was allocated and there is no water on the ground. They should question when they go to

ward X and find no health centre, yet money was allocated for the same. Therefore, MCAs need to physically go and see the projects on the ground.

Mr. Temporary Speaker, Sir, I remember that yesterday, Sen. Malalah, Sen. Mutula Kilonzo Jnr., Sen. Shiyonga and I went to Kakamega County Assembly. We were just trying to build capacity of MCAs for them to know that they need to do oversight. In some cases, issues came up that in some hospitals, pregnant and lactating mothers share beds, and some even delivered on the floor. Where did a woman even give birth on the floor? It is uncalled for, and it should never happen in a country where we are talking about universal healthcare.

Mr. Temporary Speaker, Sir, there is need for real oversight in counties in order to ensure that development reaches and is useful to *wananchi*. We do not want patients from counties to travel all the way to the Kenyatta National Hospital (KNH) for referrals; these services need to be right there within the counties. That way, Kenyans will see that we are concerned about them, and that we are serious about universal healthcare.

However, you cannot talk about universal healthcare, yet women are giving birth on the floors in hospitals and sharing beds with no bedsheets nor essential drugs. It should never happen. Drugs should never lack in our hospitals. In fact, as I speak now, drugs should be absolutely free. They should not be free in quotes, but absolutely free so that we can serve Kenyans well.

Mr. Temporary Speaker, Sir, if the audit report shows that money was allocated for drugs and for Level 5 hospitals, relevant indicators of that money should be seen. The indicators should show that this sum of money was given to a county government, and it used this much to develop Level 5 hospitals. Indicators of success should be seen, and they should be accompanied by public participation. Kenyans need to speak to these issues. Public participation will help Kenyans see the benefits of the money that is being sent to the counties.

As Senate, we have to play our oversight role to defend Article 96 of the Constitution. We are here because of Kenyans and we are here to represent the county governments and their interests. We are also here to represent that vulnerable citizen. We need to know if they are taken care of. We also need to consider affirmative action. We need to know if some money has been allocated to the marginalised people and persons with disabilities. We have to interrogate such issues with a lot of seriousness that it deserves.

I support this Report and I commend Sen. M. Kajwang' for coming up with this document.

**Sen. Farhiya:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to contribute to this Report. I want to thank Sen. M. Kajwang' for doing an amazing job. I sat through a session yesterday and I was impressed with how he handled those issues.

I have recommendations that I believe can make a difference in terms of how we move forward to ensure that we have more accountability in the counties. I know that there is legislation on internal audit within counties but the counties are not implementing that legislation. Having internal auditors in the counties is not good enough. We should have a committee that is independent of the governor to look at the reports produced by the county government. That committee can take their report to the Members of the County Assembly or they can even work with the Auditor General. In accounting standards, auditors can rely on the report of the internal auditors.

The Controller of Budget should play a greater role as compared to what she is doing at the moment. If the Controller of Budget is the one who approves all the expenses, why are we being told that money has been withdrawn from the Exchequer to make irregular payments? How does that arise? The governors are running the county governments like their own shops. They take what they want whenever they please. This House must pronounce itself in order to protect devolution.

The National Assembly recently said that counties squander money, hence they should not be given money. If that squandering continues, people will look at the county governments differently. The Committee that is supposed to oversight county public accounts and investments should be vigilant if we are to take care of the counties and their government.

I am happy that the High Court has pronounced that the governors should stay out of office when they are charged. That is a game changer because they interfere with evidence if they continue staying in office. Accountants and auditors are trained the same way and that makes it difficult for the auditors to catch them because the accountant knows what the auditor is looking for.

An accountant can hide evidence and they can produce all the documents required by the auditors which make it difficult for the auditors to detect anything. Therefore, the Auditor General should have a different approach. Instead of looking at the documents, the Auditor General should check the projects. If the governor says that they have built a particular hospital, the auditors should verify that fact by visiting the site. Verifying the projects alone is not enough. The auditors should go a step further and get the satellite coordinates of those projects to avoid duplication. If we do not put such kind of measures in place, we will be doing a disservice to the county governments.

I support this Report and I urge this Committee to be steadfast in ensuring that corrupt governors do not get away with their acts. As Senators, we are paid by tax-payers and we swore to respect the rule of law and we should make sure that governors also respect the rule of law. If time allows us, I will explain how wages have been skyrocketing yet there is a legislation that caps the wage bill. The governors continue to violate those laws and we are doing nothing about it. This House must pronounce itself so as to protect the Wanjikus, Halimas, Onyangos and all Kenyans. We have to ensure that the counties deliver to the citizens. Money sent to the counties is supposed to be used for the good of *mwananchi* and not for hiring choppers. We must have value for money in our counties. A lot more needs to be done for us to have accountable governments in our counties.

Thank you.

**The Temporary Speaker** (Sen. Lelegwe): Hon. Senators, there being no other requests to comment on the Motion, I therefore, call the Mover, Sen. Kajwang' to reply.

**Sen. M. Kajwang'**: Thank you, Mr. Temporary Speaker, Sir. I would like to thank all the Members of the Senate, who have contributed to this Motion. I know there are very many others who would have wished to contribute, but because of the timing and the pressure of other business in the House, they have not had an opportunity to comment.

I have taken note of all the suggestions made by the Senators, and as I mentioned when I was moving this Motion yesterday, this is the very first fiduciary risk report that this Senate has done. I mentioned that it might not be perfect, but from the comments

that have come from Members I can see very many ways in which we can improve this Report going forward.

Mr. Temporary Speaker, Sir, that Report has also illustrated something around improvement in the opinion of the Auditor-General on counties. In the first three years, most of the counties had adverse opinions and disclaimer of opinion. However, we have seen in subsequent years, particularly, in 2017/2018 - even though it is outside the scope of that report - that at least we have two counties with unqualified opinions and more counties with qualified opinions. I am a believer that things are going to get better when the scrutiny by Senate and county assemblies becomes more stringent.

Mr. Temporary Speaker, Sir, we must go or look ahead and ask ourselves whether, as a House, we want to deal purely with financial audit reports or performance audit reports. We have had a conversation with the Auditor-General that in future, this House, probably should be looking at performance audits and county assemblies be looking at financial audits.

We must come up with guidelines as a House that will draw a line between the role of Senate and county assemblies as far as oversight is concerned. I believe that Senate ought to look at consolidated financials coming from counties. There is a provision in the Public Finance Management (PFM) Act, that the Auditor-General shall present a report on the consolidated financials. Consolidated would mean the Executive, the Assembly and all corporations and funds established in the county. This will ensure that the Senate focuses on value for money and special audits while county assemblies could look at the specific fund accounts, specific county corporations and the audit reports for the executive.

Mr. Temporary Speaker, Sir, I would also like to mention that in the recent past, we have celebrated certain court rulings but there are others that have had the effect of shutting county assemblies. For example, many assemblies are incapable of concluding the process of impeachment of County Executive Committee (CEC) members, thanks to a court ruling that then placed the decision of the assembly at the whims and mercy of Governors. If county assemblies cannot deal with CECs, who are involved in all sorts of misadventures, then it clips their role in oversight.

County assemblies cannot summon Governors. Sometimes we blame county assemblies for not calling Governors before them; but it is as a result of court rulings that Governors can only appear before the Senate. It is only CECs and CEOs who appear before assemblies. If the county assembly is a legislative authority at the county level, why should we deny them that power and right to summon a Governor? A Governor only appears before a county assembly when there are impeachment proceedings against him. What kind of oversight is that, that takes away the powers of county assemblies?

There was the recent decision that said that county assemblies should oversight own-source revenue while Senate oversights nationally allocated revenue. As I had mentioned last week when I presented the Report of the County Public Accounts and Investments Committee we consider that view to be *obiter dicta*, and we are not compelled to comply with it.

In our view, it poses serious practical challenges of implementation. When you look at the judgment and the subsequent orders that came from the court, the issue on Own Source Revenue (OSR) did not form part of the final orders.

Mr. Temporary Speaker, Sir, the Senate must be proactive so that we move from being morticians who come in three years after to physicians who come in before things get bad. I hope that things will get better. I am confident that on issues of human resource management, if we implement recommendations of the Capacity Assessment and Rationalization of the Public Service (CARPS) for defunct local authorities, implement the reports of the county assets and liabilities verification Committee and on pending bills and if we have a clear view of the actual pending bills, we will reduce some of the fiducial risk that comes out of the counties.

Mr. Temporary Speaker, Sir, in conclusion, I wish to invite all Senators to a meeting with the Auditor-General next week on Monday. This might be his last meeting with the Senate because he will be retiring in the month of August. Let every Senator come and query the special report on pending bills. This is because there are some interesting trends in those reports, which if left unchallenged, will open a flood gate for corruption.

I thank all Senators. I request the Speaker to defer putting of the question to a later date pursuant to Standing Order No. 61(3).

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Thank you, Sen. M. Kajwang. I defer the putting of the question to 31<sup>st</sup> July, 2019.

*(Putting of the question on the Motion deferred)*

Next Order.

## MOTION

### RENAMING OF MURANG'A UNIVERSITY OF TECHNOLOGY TO KENNETH MATIBA UNIVERSITY OF TECHNOLOGY

THAT, AWARE THAT, Murang'a University of Technology (MUT) is a Chartered University established under Section 13 of the Universities Act, 2012, and is positioning itself to develop a distinctive profile as a progressive and international Technical University, growing its enrolment strategically;

FURTHER AWARE that the University is located in Murang'a County, the home County of the late politician Kenneth Njindo Matiba, who died a patriotic and political hero, with numerous achievements spanning four decades;

NOTING THAT, the late Matiba was a prolific industrialist in the hospitality and education sector, and an accomplished public servant having served as the first indigenous African Permanent Secretary for Education in 1963; Permanent Secretary for Commerce; Chairperson of the Kenya Football Federation from 1974-78; a member of parliament for Kiharu constituency; Cabinet Minister for Health; Culture & Social Services; and Transport and Communications;

FURTHER NOTING THAT, the late Matiba was part of the opposition alliance that led the liberation struggle for the restoration of

multi-party democracy through the Forum for the Restoration of Democracy (FORD), later founding FORD –Asili under which he ran for presidency in 1992 general election;

COGNIZANT that under the Heroes Act, 2014, the state is obliged to confer recognition to the late statesman for his cardinal contributions to the political and economic growth of this country;

FURTHER COGNIZANT that other patriotic Kenyans like Jomo Kenyatta, Daniel arap Moi, Masinde Muliro, Dedan Kimathi and Jaramogi Oginga Odinga have been accorded such recognition;

NOW THEREFORE, the Senate urges the National Government in remembrance of Matiba's contribution to our Nation, to rename Murang'a University of Technology to Kenneth Matiba University of Technology.

**The Temporary Speaker** (Sen. (Dr.) Lelegwe): Hon. Senators, I defer Order No.11 as Sen. (Dr.) Mwaura is not present.

*(Motion deferred)*

## MOTION

### STAFF RATIONALIZATION IN COUNTIES

THAT, AWARE THAT the Senate represents the counties, and serves to protect the interests of the Counties and their governments;

FURTHER AWARE THAT, the launch of the Capacity Assessment and Rationalization of the Public Service (CARPS) Programme was launched by the Inter- Governmental Steering Committee (IGSC) on 14th July 2014 with the objective of transforming the Public Service for efficient and effective service delivery at both levels of Government;

NOTING THAT, the implementation timelines for the CARPS programme of two years specifically with regard to the capacity assessment, workload analysis and staff redeployment and transfers, are of paramount importance in the Counties as the terms of all second term County Governors come to a close in 2022;

CONCERNED THAT, County governments are still engaged in uncontrolled hiring of staff in total violation of applicable laws, exposing a glaring imbalance between money spent on recurrent expenditure, versus budgets for development projects which are the essence of devolution;

CONCERNED FURTHER THAT, contrary to Section 15(2) (b) of the Public Finance Management (PFM) Act, in counties such as Nairobi, Machakos, Garissa, Kisumu, Wajir, Baringo, Narok, Nakuru and Nyamira, staff salaries consumed in excess of 75 per cent of total expenditure, over and above the set limit of 35 per cent as provided in Regulation 25 (1) of the Public Finance Management (County Governments) Regulations, 2015 during the FY 2018/2019;

DEEPLY CONCERNED THAT, although Section 65 of the County Governments Act requires that more than 30 per cent of the vacancies at entry level be given to members of ethnic groups that are not dominant in their precincts, the 2016 Ethnic and Diversity audit launched by the National Cohesion and Integration Commission revealed that 68 per cent of Counties have hired more than 70 per cent of their staff from one ethnic group;

NOW THEREFORE in exercise of its oversight function, the Senate resolves that the Public Service Commission (PSC), Intergovernmental Relations Technical Committee (IGTRC) and the Council of Governors provide a comprehensive report on:

1) The progress and implementation status of the Capacity Assessment and Rationalization of the Public Service (CARPS) Programme indicating the County Governments that are compliant; and

2) the number of employees in each County Government showing the amount spent as wage bill *vis a vis* recurrent expenditure budgeted for FY 2018/2019 and submit these reports to the Senate within 60 days of this resolution.

*(Sen. (Dr.) Zani on 4.7.2019)*

*(Resumption of debate interrupted on 4.7.2019)*

**Sen. (Dr.) Zani:** Thank you, Mr. Temporary Speaker, Sir. Let me start from where Sen. M. Kajwang left it when he said that the CARPS report should help us to structure human resources management within the counties. However, there has not been a lot of progress in terms of recommending the implementation of the recommendations that were given. There has not been enough effort so far that has been put to ensure that enough impetus is put in terms of employment, redeployment, rationalization, distribution of jobs, transfers within the county, voluntary separation and allowing people who can leave certain jobs to do.

Mr. Temporary Speaker, Sir, you might recall that when we were in Kisumu, Governor Anyang'-Nyong'o said that may be counties have to think about how they will offload some of the people or restructure and find a way to seek for voluntary retirement from some of the workers.

I had formally moved the Motion. So, I will just proceed.

This particular report that was put in operation through national and County Governments Coordinating Summit on 19<sup>th</sup> June, was focused on ensuring that we come up with key human resources and structural changes that will enhance the proper management of human resources within counties. Further, an institutional framework was established and it is what we are referring to as CARPS.

It was an IGSC which was launched on 14<sup>th</sup> July, 2014 by the President. There was a lot of impetus that this programme should create order. It was officially launched on 1<sup>st</sup> September and the respective governors also participated. That programme was meant to be completed. It was meant to be carried out between April, 2016 and 26<sup>th</sup> May,

2017. So, it was from 11<sup>th</sup> April, 2016 to 26<sup>th</sup> May, 2016. It had all the various issues that were concerned.

We know that quite a number of personnel were taken over from the defunct local authorities. However, the whole issue of streamlining has a direct correlation on another very important component within the counties, which is the wage bill.

In so far as we have a very huge wage bill, which we cannot correlate with deliverables from the various people who work within the counties, then we have a problem. There is a report that was put across sometimes back. Sen. Farhiya who will second this Motion will project more data in terms of how the counties have performed as far as human resources are concerned. This is, for example, by having human resource facilities within their counties having a very huge wage bill, way above what is recommended in those counties.

Mr. Temporary Speaker, Sir, we have a County Human Resource Management Audit Report 2017/2018, which mentions various counties such as Baringo and Nairobi City. We have a county such as Kirinyaga where the county hired ten administration officers, against the proposed staff establishment that is indicated as only two positions. We also have the case of Bomet where, for example, in June, the payroll audit review revealed 213 new employees with a monthly gross salary of Kshs11million within one year. However, the vacancies were not advertised and recruitment not carried out by the County Public Service Board (CPSB).

We also have Kisumu County where the county executive had an increase of personnel allowances of Kshs845 million from the previous year, without a clarification of how that figure changed. There are many other counties. The bottom line is that if we are going to have all these employees within a county, then it is important there is control in terms of how they are hired.

Secondly, there should be a systematic output that they are meant to come out with. Thirdly, that finally, recurrent expenditure, which is very important, should not take up everything, including ensuring that very many counties are not able to conduct their development projects.

This has come up over and over again that in many counties they have not been able to do that. Further, in specific counties such as Nairobi, Machakos, Garissa, Kisumu, Wajir, Baringo, Narok, Nakuru and Nyamira staff salaries consumed in excess of 75 per cent of total expenditure over and above the set limit of 35 per cent. This is provided by Regulation 25 of the Public Finance Management (PFM) Act, County Governments' Regulations, 2018.

Mr. Temporary Speaker, Sir, the flouting of this limit of 35 per cent to 75 per cent is more than double the amount that is expected within this regime. It becomes very difficult. In fact, many of the audit reports show that counties have hired more than 70 per cent of staff, far more than what is expected.

The other issue is that most of these have not followed the specific requirement that not more than 30 per cent of the vacancies at the entry level should be given to members of ethnic groups that are not dominant in their counties. This has gone up to 70 per cent.

The issue of human resource management is not new. There are countries that have made a breakthrough. When we go through literature, we have case of Rwanda and Ghana. They have come up with specific programmes that have ensured that they are able

to coordinate. In Ghana, the Government in the year 2014 established an inter-ministerial coordinating committee. Likewise, in Rwanda, they were able to come up with a mechanism to ensure that through Good Governance and Devolution: A Governance Review of 2018, they were able to address these issues. This was to the point, and this should motivate us---

In the Efficiency of Government Spending Coefficients that were put together from the World Economic Forum Executive Opinion Survey, Rwanda managed to be number five. Kenya, on the other hand, is at number 70. We have the last country as Venezuela at number 136. It is, therefore, possible.

Mr. Temporary Speaker, Sir, this Motion just requests and advocates for two things to happen; that this Senate resolves that the Public Service Commission (PSC), the Inter-governmental Relations Technical Committee (IGTRC) and the Council of Governors (CoG) provides a comprehensive report. This is because we have not had a follow-up mechanism to ensure that this happens. The progress report should be the progress and implementation status of Capacity Assessment and Rationalisation of the Public Service (CARPS) programme indicating the county governments that are compliant and those that are not. Then the number of employees in each county government showing the amount spent as wage bill *vis-à-vis* recurrent expenditure budgeted for Financial Year (FY) 2018/2019. These reports should be submitted to the Senate within 60 days of the resolution.

Mr. Temporary Speaker, Sir, This is very important because we are trying to create a level of order and good governance within our county governments, which will now enable us to contain the wage bill, which has been a big topic here this afternoon. If we can contain our wage bill, we can then push some of that money to development projects, which are important and which devolution actually envisaged. Devolution envisaged that the people in our counties should gain in terms of the social, cultural and economic outcomes.

Mr. Temporary Speaker, Sir, I beg to move and request Sen. Farhiya to second.

**Sen. Farhiya:** Thank you, Mr. Temporary Speaker, Sir, for allowing me to second. I thank my sister, Sen. (Dr.) Zani, for picking this topic. I ended up seconding her because I was also thinking of the same Motion. When I went to the Director, they told me that she was doing the same thing, and I approached her in order to contribute to this issue.

First of all, Mr. Temporary Speaker, Sir, people are recruited within the counties. I am talking about the counties like mine, which did not inherit a huge wage bill. They then County Council had not employed so many people. Therefore, some counties were blessed to have inherited less staff. However, the governors then came and recruited more staff.

Mr. Temporary Speaker, Sir, there are certain criteria required by law in terms of selecting for the appointment by the County Public Service Board (CPSC). These include the standards, values and principles of a candidate as set out in Articles 10, 27, 56(c) and 232(1) of the Constitution. It also prescribes the qualification for holding or acting in an office, which include experience and achievement attained by the candidate. It also includes the conduct of the candidate in view of the relevant conduct, ethics and integrity.

Given all that, Mr. Temporary Speaker, Sir, some counties have recruited people, and I am assuming that they used those criteria. They may have been within the threshold

or sometimes less than 25 per cent. Then another Governor comes in and recruits to an unimaginable level, which I will read later on. I did further analysis using data from the Controller of Budget (CoB) to come up with very scary statistics. If you do not take care of some of these things properly--- The law requires that a maximum of 35 per cent of the money should be used for staff. It also requires that at least 30 per cent of the money should be used in development. Needless to say, the remaining 35 per cent is for service delivery; for example, to ensure that there is medicine and medical services in hospitals. In terms of agriculture, you have to provide seeds and the outreach services by the technical people to advise farmers. There are many other things there, as outlined in the Fourth Schedule of the Constitution.

In terms of projects, there is need for value for money. Most governors recruit people just for those people to sit idle in the offices. The Controller of Budget audit report shows that Wajir County's wage bill is at 65.14 per cent of the budget. How will they deliver services or do any development project? The 65 per cent in Wajir County is only taking care of 35 per cent. How is that logical? It is very illogical and I do not want to believe that the county lacks people who can do the analysis that I am doing at the moment. That is because they have competent people who can do this analysis but they are ignored.

We can understand the governors who found the defunct county governments and inherited a big wage bill but what about those who inherited a clean bill? There are some counties that were at the 35 per cent threshold with the previous governors, but things have now changed. In Turkana, Siaya and Makueni counties, the governors have not changed but their wage bill has increased by 10 per cent and above. Some new governors have taken their counties to a different level though they have not reduced drastically.

Mr. Temporary Speaker, Sir, there is a Swahili saying that goes; *kidogo kidogo hujaza kibaba* which means that one just needs to take a little step but in the end, they will see a difference in the counties. Tharaka Nithi County has reduced its wage bill by 3.7 per cent. That percentage is small, but the Governor is willing to do something about it. If he continues reducing the wage bill at the same rate, he will reduce the wage bill by 15 per cent in the next five years. His percentage was at 60 per cent, but he reduced it to 3.7 per cent. At the end of his term, this Governor will have reduced the wage bill to 45 per cent if he continues with the same trend.

There is a Governor who is serving his second term and he has reduced his wage bill by 2.38 per cent. Nyeri Governor, who was a Deputy Governor and ascended to power through unfortunate circumstances, is now doing a good job. He has reduced his wage bill by 2.06 per cent. Narok County has reduced its wage bill by 0.51 per cent. I have mentioned these four counties because they have made an attempt to reduce their wage bill.

**The Temporary Speaker** ((Dr.) Lelegwe): Sen. Farhiya, you will have seven minutes to continue.

**ADJOURNMENT**

**The Temporary Speaker** ((Dr.) Lelegwe): Hon. Senators, it is now 6:30 p.m., time to interrupt the business of the House. The Senate, therefore, stands adjourned until Tuesday 30<sup>th</sup> July, 2019 at 2:30 p.m.

The Senate rose at 6:30 p.m.